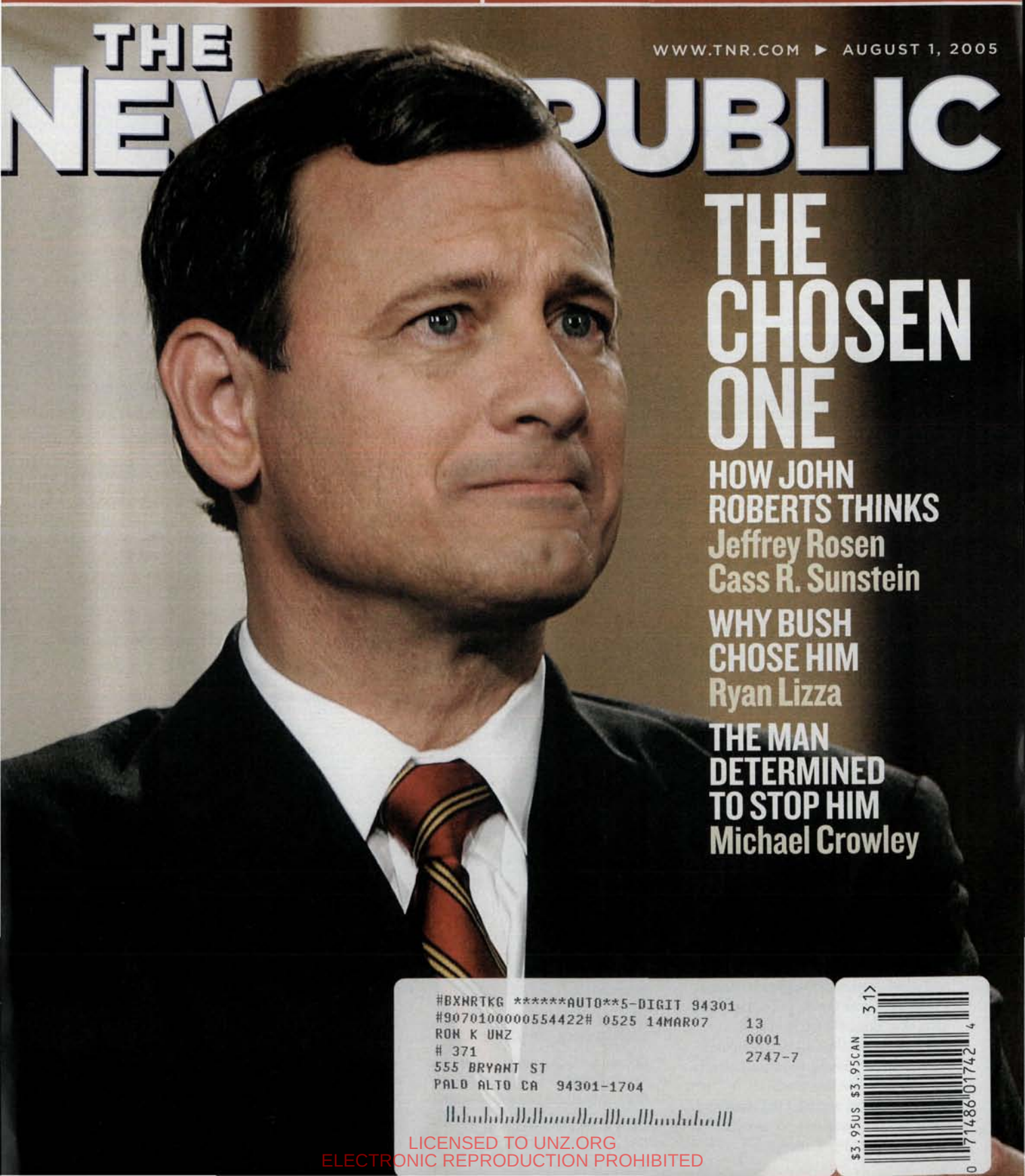
NOVELS AND FLIGHT FROM REALITY
JAMES WOOD

ANTICIPATING WITHDRAWAL FROM GAZA
MARTIN PERETZ

THE NEW REPUBLIC
WWW.TNR.COM ▶ AUGUST 1, 2005



THE CHOSEN ONE

HOW JOHN ROBERTS THINKS
Jeffrey Rosen
Cass R. Sunstein

WHY BUSH CHOSE HIM
Ryan Lizza

THE MAN DETERMINED TO STOP HIM
Michael Crowley

#BXNRTKG ******AUTO**5-DIGIT 94301
#9070100000554422# 0525 14MAR07
RON K UNZ
371
555 BRYANT ST
PALO ALTO CA 94301-1704

13
0001
2747-7

3 1>
$3.95US $3.95CAN
0 71486 01742 4

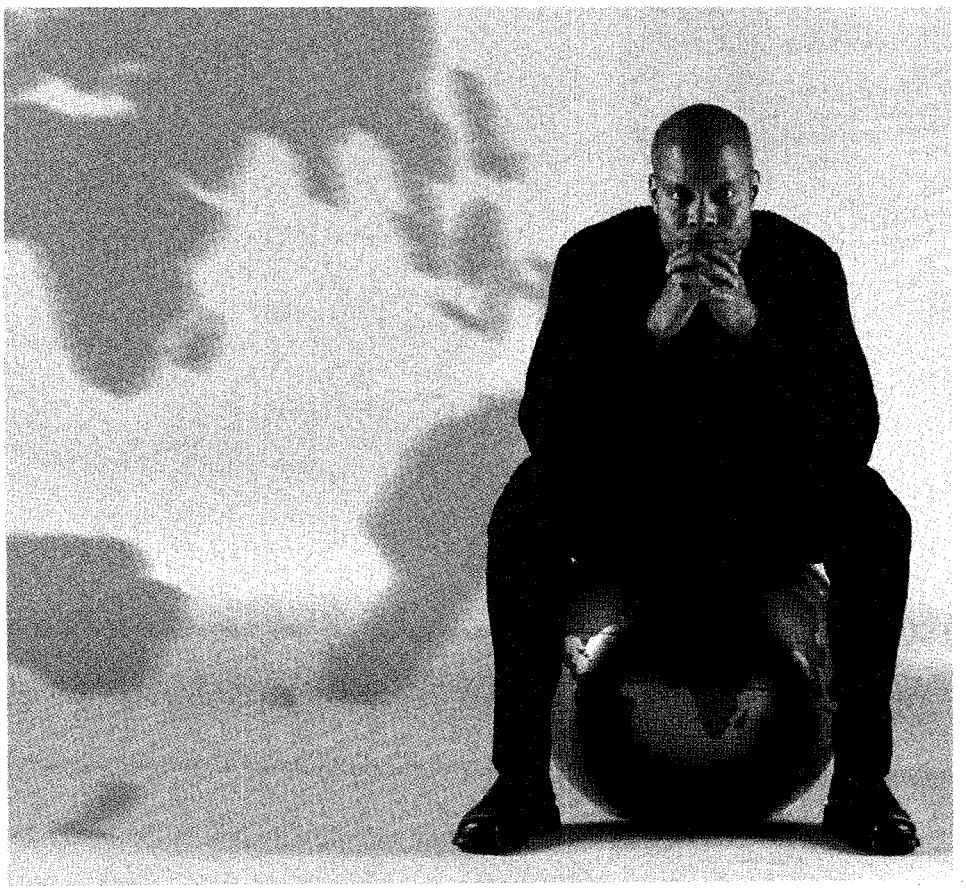
LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

A DISCUSSION PRESENTED BY

TNR/

The New Republic's Symposium on Public Policy

UPDATING AMERICA'S TELECOMMUNICATIONS LAWS: WHAT'S IN IT FOR US?



WEDNESDAY, JULY 27, 2005

12:00 NOON REGISTRATION
12:30 - 2:00 PANEL DISCUSSION
LIGHT BUFFET LUNCH

DIRKSEN BUILDING, ROOM 11
U.S. SENATE · WASHINGTON, DC

INTRODUCTORY REMARKS BY:
SEN. MARK PRYOR, D-ARK.
AND SEN. JOHN KERRY, D-MASS.

CLOSING REMARKS BY:
SEN. JOSEPH LIEBERMAN, D-CONN.

Moderated by:
Michael Crowley, Senior Editor
The New Republic

Seating will be limited. Please RSVP as soon as possible by e-mailing rsvp@tnr.com or call (202) 508-4441.

SPONSORED BY

USTELECOM
UNITED STATES TELECOM ASSOCIATION

Since Congress last updated the law a decade ago, cell phones, the Web, DSL and wireless technologies have changed our world. But as Congress debates new laws, what does the future hold for everyday Americans? You're invited to a discussion on how the debate will affect job creation, consumers and competitiveness, and hear the views and opinions of workers, minority-owned business leaders and educators.

Panelists include:

Kim Anderson, *Federal Lobbyist*
National Education Association

Harry Alford, *President & CEO*
National Black Chamber of Commerce

George Kohl, *Director of Research & Development*
Communications Workers of America

Clyde Prestowitz, *President*
Economic Strategy Institute

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

EDITOR-IN-CHIEF
MARTIN PERETZ

EDITOR Peter Beinart (on leave)
ACTING EDITOR J. Peter Scoblic
LITERARY EDITOR Leon Wieseltier
MANAGING EDITOR Jeremy Kahn
DEPUTY EDITOR Katherine Marsh
SENIOR EDITORS
Jonathan Chait, Jonathan Cohn, Michelle Cottle, Michael Crowley, Gregg Easterbrook, Franklin Foer, Ruth Franklin, John B. Judis, Lawrence F. Kaplan, Ryan Lizza, Noam Scheiber, Andrew Sullivan, James Wood, Jason Zengerle
LEGAL AFFAIRS Jeffrey Rosen
ASSISTANT MANAGING EDITOR
Adam B. Kushner
TNR ONLINE
Richard Just, Editor
Christiane Culhane, Culture Editor
FILMS Stanley Kauffmann
THEATER Robert Brustein
ART Jed Perl
MUSIC David Hajdu
ARCHITECTURE Martin Filler
DANCE Jennifer Homans
TELEVISION Lee Siegel
POETRY EDITOR Glyn Maxwell
SPECIAL CORRESPONDENT Joshua Kurlantzick
CONTRIBUTING EDITORS
Fouad Ajami, David A. Bell, Paul Berman, Jean Bethke Elshtain, Nathan Glazer, Anthony Grafton, David Grann, Robert Kagan, Michael Kinsley, Charles Krauthammer, Jeremy McCarter, John McWhorter, Sherwin B. Nuland, Michael B. Oren, Christopher Orr, David Rieff, Maggie Scarf, Ronald Steel, Cass R. Sunstein, Alan Taylor, E.V. Thaw, Helen Vendler, Michael Walzer, Sean Wilentz, Alan Wolfe, Robert Wright
CONTRIBUTING ARTISTS
Jack Coughlin, David Cowles, Vint Lawrence, David Schorr
FOREIGN CORRESPONDENTS
Massoud Ansari, Masha Gessen, Yossi Klein Halevi, Janine Zacharia
ASSOCIATE EDITOR Spencer Ackerman
ART/DESIGN DIRECTION
Joe Heroun, Christine Car/H2C Media
EDITORIAL-CORPORATE COORDINATOR
Laura E. Obolensky
PRODUCTION DIRECTOR AND INFORMATION-TECHNOLOGY DIRECTOR
Bruce Steinke
PRODUCTION MANAGER
Henry Riggs
ASSISTANT EDITORS
Kara Baskin, Marisa Katz, Clay Risen
ASSISTANT TO THE EDITOR
Alexander Barnes Dryer
ASSISTANT LITERARY EDITOR
Deborah Friedell
ASSISTANT POETRY EDITOR Melanie Rehak
REPORTER-RESEARCHERS
Ben Adler, Rob Anderson, Alexander M. Belenky, Keelin McDonell

PRESIDENT & PUBLISHER Stephanie Sandberg
GENERAL MANAGER Allen Chin
CIRCULATION DIRECTOR Lori Fleishman Dorr
ONLINE BUSINESS DIRECTOR Ari Gersen
ONLINE MARKETING MANAGER Emilie Harkin
BUSINESS ASSISTANT Marjorie Powers

ADVERTISING SALES & MARKETING
ASSOCIATE PUBLISHER Richard Parker
DIRECTOR OF ADVERTISING, WEST
Joan Stapleton Tooley
ACCOUNT DIRECTOR Julie Sturmak
PUBLISHING REPRESENTATIVE
Perry Janoski, Allston-Cherry, Ltd.
MARKETING MANAGER Alexandra Scott

TNR/ON SYMPOSIA ON PUBLIC POLICY
Joan Daly

FINANCE & ADMINISTRATION
ACCOUNTING MANAGER Jessie Ahn
ACCOUNTING ASSISTANT Vanessa Wilson
BUSINESS ASSISTANT Grant Loomis

BOARD OF DIRECTORS
ROGER HERTOG, Chairman
MARTIN PERETZ
MICHAEL STEINHARDT

THE NEW REPUBLIC
Updated daily. On the Web at www.tnr.com.

THE NEW REPUBLIC
A JOURNAL OF POLITICS AND THE ARTS

AUGUST 1, 2005 WASHINGTON, D.C. ISSUE 4,724 VOLUME 233

Cover Story

Jeffrey Rosen 12 **Bottoms Up** John Roberts is a conservative, not an ideologue.

Michael Crowley 14 **Secret Passion** Why a bad nominee is good for liberal activists.

Ryan Lizza 15 **White House Watch: Legal Theory** Why didn't Bush pick a hard-right nominee, and what does that say about his political standing?

Cass R. Sunstein 17 **Minimal Appeal** John Roberts is a respected intellectual who eschews fundamental questions of law—like some of our best justices.

Politics & the World

4 **CORRESPONDENCE** What makes a good teacher? &c.

Noam Scheiber 6 **TRB | Mission Creep** Only small-time crooks get run out of Washington; the really corrupt ones become institutions.

The Editors 7 **Revisiting Wilson** Karl Rove's defenders want to question *whose* credibility on Iraq's nuclear program?

8 **NOTEBOOK** Guantánamo's former commander gets "creative" with Congress, &c.

Martin Peretz 10 **Eyeful in Gaza** Israel's pullout from Gaza is the right thing to do, but it won't bring peace.

Lawrence F. Kaplan 34 **BAGHDAD DIARIST | Quiet American II**

Books & the Arts

Stanley Kauffmann 20 **FILMS | Monsters and Music** Spielberg's inner adolescent returns in *War of the Worlds*; *The Beat That My Heart Skipped* is just silly.

Robert Brustein 21 **THEATER | Red and Blue States of Mind** Ever since the last election, our country has been waging a political color war. But the theatrical division between red and blue is more ambiguous—as two recent productions reveal.

James Wood 23 **The Blue River of Truth** *Realist Vision* by Peter Brooks

Oren Harman 28 **Particles of Truth** *Blackett: Physics, War, and Politics in the Twentieth Century* by Mary Jo Nye

Larry Bradley 30 **POEM** | *His Muse*

COVER PHOTO BY *Jim Watson/AFP/Getty Images*

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

CORRESPONDENCE

SCHOOL DAZE

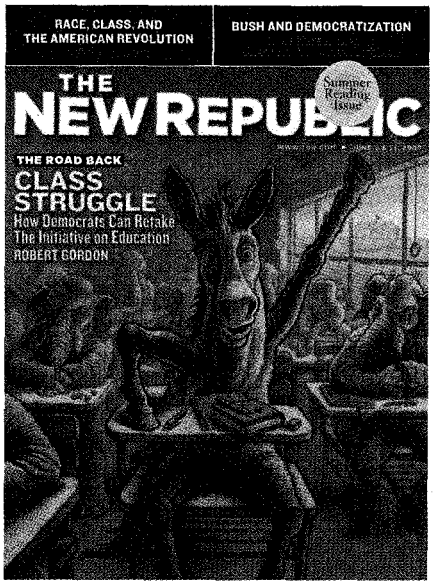
ROBERT GORDON'S INSIGHTFUL essay drives home a number of key policy issues related to teaching quality and student achievement ("Class Struggle," June 6&13). But, with one blustery swing at teacher recruitment and training, he strikes out. Gordon, in lauding shortcuts into teaching, such as Teach for America (TFA), totally ignores the fact that our politicians have done little to uniformly enforce standards and deepen preparation, especially for teachers who are recruited and hired for our most underperforming schools. In citing one study, Gordon misreads the research on Teach for America (where, as I have written elsewhere, the "student achievement of both TFA teachers and the control group was abysmal, students made few gains, and the novice control group teachers actually had *less* teacher preparation than their TFA counterparts"). Numerous other studies show that more extensive teacher education can lead to substantial gains in student achievement, but both Republican and Democratic policymakers have done little to guarantee that new teachers are well-prepared and adequately supported. Lesser-prepared teachers are far more likely to flee the profession, leaving their students facing a revolving door of untrained novices and little, if any, educational opportunity. Solving this issue will require university presidents investing at least as much in teacher education as they do in engineering and medicine; state and local school boards uniformly enforcing the teaching standards they establish; legislators and administrators increasing pay and improving working conditions in our hardest-to-staff schools; and, finally, school districts offering new teachers much more assistance in their first years on the job. This is what policymakers—both Democrats and Republicans—need to say *and* do about education.

BARNETT BERRY
President
Center for Teaching Quality
Chapel Hill, North Carolina

GORDON VIEWS EFFORTS TO IMprove America's public schools through the prism of partisan politics. But, even if he is correct about the failure of progressives to develop an education vision of their own, he is unrealistic in his expectations that schools alone can eliminate the daunting achievement gap. Poor children go to class with huge deficits in socialization, motivation, and intellectual development that are beyond the ability of the best schools to remedy themselves. The changes in salaries and school culture that Gordon advocates have great intuitive appeal, but, ultimately, they are not enough, because teachers are not miracle-workers. They cannot be parent, police, and psychologist while trying to teach. Instead of looking at what takes place in school, Gordon needs to look at what takes place outside the classroom. Unless progressives develop programs that address the social and economic conditions that poor children return to at the end of the school day, the reforms he advocates will do little to improve overall educational quality.

WALT GARDNER
Los Angeles, California

GORDON HIT THE NAIL ON THE head when he said that it has become more difficult to recruit great teachers, as educated women have moved into other, more lucrative fields. But it is not just better money that attracts smart women to fields other than teaching: It is better working conditions. American teachers suffer under lousy conditions. They have few breaks, cannot go to the bathroom except during those few breaks, are on call to settle violent disputes in the hallways between classes, and sometimes don't even have lunchtime to themselves. They are often vulnerable to assault by students, inside and around the school. They must deal with student and parent



apathy and hostility. Theirs is often a thankless, seemingly hopeless task: to make literate, thinking, hardworking citizens out of bored, disaffected, angry young people.

To get these good teachers back into the schools, first we have to make schools physically safe for students and teachers. Then we have to restore some respect to the profession of teaching and to teachers themselves. (It must be admitted that the erosion of respect for teachers is at least partially due to the fact that so many unqualified people are working as teachers.) Third, the curriculum taught by these teachers must seem, and be, more relevant to students as they contemplate their futures as college students and workers. And, last but not least, we need changes in the working world so that a good education is actually a prerequisite to making a good, living wage. As it is, too many students see school as a holding pen that keeps them unfairly out of the

continued on page 33

Please address letters to Correspondence, **The New Republic**, 1331 H Street, NW, Suite 700, Washington, D.C. 20005; letters may also be sent electronically to letters@tnr.com. All letters should include the writer's full name, address, and telephone number; be typed double-spaced; and be fewer than 200 words. Letters may be edited for space and clarity. Please do not send letters via fax.

THE NEW REPUBLIC (ISSN 0028-6583), Vol. 233, Number 5, Issue 4,724, August 1, 2005. (Printed in the United States on July 21, 2005.) Published weekly (except for combined issues dated March 28 & April 4, May 2 & 9, June 6 & 13, July 11 & 18, August 22 & 29, November 28 & December 5, and December 26, 2005 through January 9, 2006) at 1331 H Street, NW, Washington, D.C. 20005. Telephone (202) 508-4444. For advertising inquiries, please contact Grant Loomis at (202) 508-4444 or our NY sales office at (212) 465-9447. Yearly subscriptions, $79.97; foreign, $119.97 (U.S. funds); Canada, $89.97 (U.S. funds). Back issues, $8.00 domestic and $10.00 foreign/Canada (includes postage & handling). © 2005 by The New Republic, LLC. Periodicals postage paid at Washington, D.C., and additional mailing offices. Rights and permissions: fax (202) 628-9383. Indexed in Readers' Guide, Media Review Digest. For hard copy reprints, call (202) 508-4444. Microform: Canadian Periodical Index, and CD-ROM are available through ProQuest, 300 N. Zeeb Road, Ann Arbor, MI 48106. Telephone (800) 521-0600. Postmaster: Send changes of address to The New Republic, P.O. Box 420235, Palm Coast, FL 32142-0235. Member, Audit Bureau of Circulations. Unsolicited manuscripts can be returned only if accompanied by a self-addressed, stamped envelope (e-mail address: letters@tnr.com). For subscription inquiries or problems call **(800) 827-1289** or visit our website at www.thenewrepublic.com.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

A Demilitarized Palestinian State

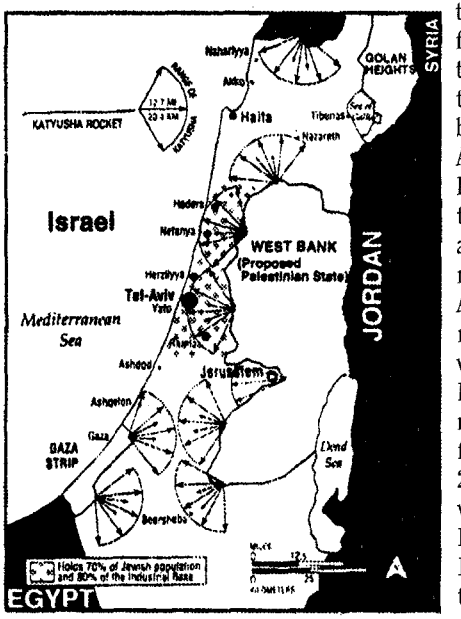
Should Israel, should the world, rely on it?

To most people, the establishment of a Palestinian state seems to be the indispensable outcome of the decades-long attempt to settle the Arab/Israel conflict. Such an outcome might be desirable between two countries that could live side-by-side in peace with each other. The Arabs, however, have never changed their position and are sworn to destroy the Jewish state.

What are the facts?

Israel threatened by enemies. Israel is a very small country. Including the Golan and the "West Bank," it is only one-half the size of San Bernardino County in California. Israel has for some time been in a "cold peace" with Egypt and with Jordan. Other Arab states are still in a declared or undeclared state of war with Israel. Iran, Moslem though not Arab, is the most determined and deadly of them all. It lurks in the background, its foremost military and political objective being the destruction of the state of Israel.

The Palestinian Authority (PA), the successor of the murderous PLO, has not abandoned its core objective, namely to kill the Jews and to destroy the State of Israel. While the latter objective is until now beyond its reach, it has been most successful in the former. Over 1,000 Jews have been killed so far in the murderous intifada and countless thousands have been grievously wounded. It seems almost incomprehensible that the supposedly level-headed men who are the government of Israel would be trustful of such people and, under whatever pressure from "the international community," would countenance the establishment of a Palestinian state on its border. Despite statements to the contrary, the PLO (and its successor PA) have still not complied with one of Israel's main requirements, namely that it abrogate the clauses in their covenant that call for the destruction of Israel. Abu Mazen, though better tailored, better barbered and better spoken than his thuggish predecessor still pursues the old goal of destroying Israel in "stages" – first by creating a Palestinian state, from which an allied all-out assault against the critically vulnerable Jewish state can be launched and then, hopefully, the deathblow delivered.



A Palestinian state-demilitarized?

The myth of demilitarization. The assumption that "Palestine" would be demilitarized is not tenable. The Arab nations would not allow it, even in the most unlikely case that the Palestinians themselves so desired. Also, the Palestinian entity would have thousands of trained soldiers, camouflaged as police. They could be helicoptered in minutes to positions on the border with Israel, with armored forces from Syria reaching them within the same night. But such mobilization of the "demilitarized" Palestine would not be required. The weapons of preference of Arab terrorists are the Soviet-made Katyushahs, highly effective missiles, truck-mounted and mobile, ideal for hit-and-run raids against Israel. Israel could not prevent them from flooding Palestine. A look at the map makes clear that these rockets, short-range though they may be, would dominate the heartland of Israel. Easily moved and hidden along Israel's new eastern borders – to be increased from less than 40 miles in length to over 200 miles – these Katyushah rockets would rain destruction over most of Israel. They would cover in their entirety Israel's narrow waist that holds 70% of the Jewish population of the country, 70% of its industrial base, its only international airport, and its most important military installations.

The Arabs who live in Judea/Samaria (the "West Bank") danced on the roofs of their homes when Iraqi Scud missiles fell on Tel Aviv during the first Gulf War. They have continued to engage in unremitting terror and murder against the Jews. Only incurable optimists can believe that an "autonomous" Palestine would become a peaceful neighbor of Israel. Foolishly, Israel has now ceded the Gaza Strip – the invasion route since before biblical times – with Judea/Samaria (the "West Bank") perhaps not too far behind. With Gaza and Judea/Samaria in the hands of its implacable and sworn enemies, it would make the country indefensible and Israel would have laid the groundwork for its own destruction.

Tanks, warplanes, and missiles would only be needed for the final mopping-up process. In the meantime, mortars and Katyushahs located on the Judean ridges – Israel's proposed new borders – would suffice to paralyze life and industrial and military activity in Israel. But one can hope that the leaders of Israel clearly understand this danger and that they will ultimately not make concessions that will endanger the security of their country.

This ad has been published and paid for by

FLAME

Facts and Logic About the Middle East
P.O. Box 590359 ■ San Francisco, CA 94159
Gerardo Joffe, President

FLAME is a tax-exempt, non-profit educational 501 (c)(3) organization. Its purpose is the research and publication of the facts regarding developments in the Middle East and exposing false propaganda that might harm the interests of the United States and its allies in that area of the world. Your tax-deductible contributions are welcome. They enable us to pursue these goals and to publish these messages in national newspapers and magazines. We have virtually no overhead. Almost all of our revenue pays for our educational work, for these clarifying messages, and for related direct mail.

To receive free FLAME updates, visit our website: www.factsandlogic.org

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

Mission Creep

TRB
FROM WASHINGTON

LAST THURSDAY, GOP Representative Randy "Duke" Cunningham announced he won't seek reelection to the San Diego–area seat he's held for eight terms. Federal investigators are currently looking into whether he sold his home to a defense contractor at a wildly inflated price in exchange for a lucrative federal contract, among other allegations. Cunningham somehow worried this would make him a liability to the GOP. "I learned in Vietnam that no one person is more important than the mission," said the congressman, a former Navy fighter pilot.

To the untrained eye, it looks as though Cunningham is going down for using his government position to enrich himself. And, no doubt, there are some sketchy dealings involved here. In addition to his real estate coup, Cunningham also sold his 65-foot yacht to a Long Island developer for $600,000 in 2002, a 300 percent appreciation over the 1997 purchase price. Still, Cunningham's alleged misdeeds are only the proximate cause of his demise. His real problem is a lack of ambition.

We're conditioned by the congressional scandals of previous decades—Dan Rostenkowski's skimming from the House kitty, Jim Wright's dubious book income—to think that corruption, once exposed, puts you on a fast track to jail, or at least early retirement. In fact, the only offense likely to land a politician in hot water is *small*-time corruption, the kind of petty crime that's easily understood. Engage in grand-scale, sell-your-soul-to-the-devil-style venality, and, as long as you don't violate the letter of the law, you can prosper long after your unethical dealings become known.

I'm thinking here mainly of the current House majority leader, Tom DeLay. DeLay could have taken the path of least resistance. He could have, say, won a spot on an appropriations subcommittee known only to C-SPAN obsessives and a handful of Beltway contractors, then turned around and collected kickbacks in exchange for healthy dollops of federal cash. But DeLay was destined for bigger things. He found his calling right around the time the GOP came to power in 1995, at which point he began building a political apparatus that ranks up there with the most profitable and pernicious in history.

For Cunningham, it's a lesson in what might have been—how to shake people down without running afoul of the law. DeLay's first move was to browbeat the country's 400 biggest political action committees into donating almost exclusively to the GOP rather than both parties. Step two was to pressure the biggest lobbying shops in town, which had historically been bipartisan, to hire only Republicans. The not-so-subtle implication was that holdouts would be cut out of future legislative bonanzas. "We're just following the old adage of punish your enemies and reward your friends," DeLay once told *The Washington Post*. Finally, DeLay installed his own henchmen at the top of this lobbying infrastructure. As my colleague John B. Judis reported in June, roughly 30 alumni of Team DeLay have ascended to top lobbying positions since the late '90s.

The result was that, by the time the Republicans controlled all three branches of government following the 2002 election, DeLay had transformed K Street into an extension of the House leadership. Prior to the mid-'90s, K Street lobbyists looked out mostly for their narrow interests. DeLay arranged it so that lobbyists could be dispatched to twist congressional arms in support of legislation even when the business interests they represent don't stand to benefit. And the best part of all is that the lobbyists actually *paid* for this privilege.

Some might object that this is an unfair standard by which to compare poor Duke Cunningham. We can't all be as innovative—some might even say revolutionary—as Tom DeLay. (Certainly not the Dukester, whose other big project was a Web venture called Top Gun Enterprises, which sold knives displaying congressional seals, perhaps illegally.) But the beauty of DeLay's brand of corruption is that you don't have to be the guy who thought it up to get in on the action. A few months ago, the *Post* reported that House Majority Whip Roy Blunt had so successfully emulated his mentor that his political machine had "begun to rival 'DeLay Inc.'" in reach. Other DeLay protégés have grown similarly powerful.

Others might object that it's all fine and good to set up a DeLay-style operation if all you want is power. But what if you're after material comforts? In that case, don't you need to resort to (the alleged) Cunningham-style shenanigans? Wrong again! The beauty of a big political machine is that it takes lots of people to make it hum. And, as Nicholas Confessore has pointed out in *The Washington Monthly*, the beauty of building it outside the government is that you can hire all the friends and family members you want without attracting much scrutiny. DeLay's wife has been an employee of the Alexander Strategy Group, the powerful lobbying firm run by former DeLay aide Ed Buckham. She and her daughter have together been paid more than $500,000 by DeLay's political action and campaign committees since 2001. The Dukester managed to get his home raided by FBI agents over a similar amount of money.

Even so, a skeptical Cunningham might complain that DeLay has lately found himself in some legal trouble of his own. This is true enough. But it's worth pointing out that, if DeLay loses his job, it won't be because of the machine he has built. It will be thanks to a handful of smaller offenses, such as allowing a lobbyist to pay for his overseas travel—offenses more in line with ... Duke Cunningham's.

How to explain these little perversities? The answer has to do with the press. Most news organizations are profoundly uncomfortable making subjective judgments, however obvious. Instead, the preoccupation is with small, easily provable allegations. When it comes to political discourse, as my colleague Jonathan Chait has pointed out, the result is that politicians get nailed for tiny embellishments but get away with statements that are technically true but spectacularly dishonest, such as George W. Bush's claims about the size of his 2001 tax cut. Likewise with corruption, where the press practices a kind of literalism that dwells on what is officially illegal or improper (like an affair with an intern) while ignoring behavior that is technically OK but ethically obscene.

Don't misunderstand me: Duke Cunningham deserves every bit of scorn he gets. But it only took a month to run him out of town once his dealings came to light. We've known about DeLay's for over a decade. That's about nine years and eleven months too long.

NOAM SCHEIBEI

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

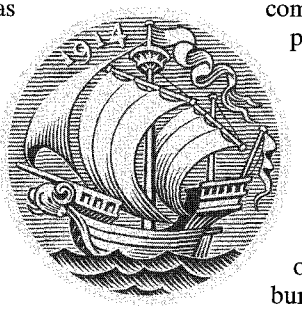
Revisiting Wilson

SUDDENLY, EVERYBODY IN Washington is an expert on the Intelligence Identities Protection Act, the 1982 law making it a crime to knowingly disclose the identity of a clandestine intelligence agent. And everybody in town has a pet theory on exactly who in the Bush administration leaked the identity of CIA operative Valerie Plame and where and how they did it. It was Karl Rove, in the West Wing, with the lead pipe. No, wait—it was Ari Fleischer, on Air Force One, with the candlestick.

Of course, this is the way the right wing wants it: Their talking points on the Plame scandal are designed to confuse. And the good news is that it won't make a bit of difference in a court of law. Federal prosecutor Patrick Fitzgerald's audience isn't the viewers of "Hardball." It's the people huddled in a federal grand jury room, and they will deliver indictments if he demonstrates that somebody in the administration knowingly revealed Plame's identity (or committed some other crime, such as lying about their statements under oath).

But the court of public opinion is another matter. Here, the GOP's focus on narrow legal definitions and how they may or may not apply to the actions of a few individuals, all of which obscures a broader, more important story—the story of how this administration misled the public in order to make a convincing case for war in Iraq.

Remember that it was the controversy over bad prewar intelligence that first thrust Plame—and her husband, former Ambassador Joe Wilson—into the public eye. In 2002, the CIA dispatched Wilson to substantiate claims that Iraq had tried to purchase yellowcake uranium from Niger, an allegation that would have substantially bolstered the administration's case that Saddam Hussein posed an imminent threat. Wilson found no evidence of an Iraq–Niger connection, but the administration continued to cite the Niger story, most famously in the 2003 State of the Union, as evidence of Saddam's menace. After the war began, and no weapons of mass destruction turned up, Wilson started telling people that the Niger story had been bogus—first through leaks to reporters, then in a *New York Times* op-ed he wrote under his own name. As both the *Los Angeles Times* and *Newsweek* have reported, that's when administration officials looked into Wilson's background, discovered he was married to Plame, and publicized her CIA role. This, in turn, prompted Fitzgerald's investigation.



As that investigation has spilled onto the front pages in the last few weeks, supporters of the administration have picked up where they left off two years ago, saying that Wilson was unqualified for the Niger investigation and declaring that his credibility is in tatters. It's true that Wilson has made himself an easy target for such accusations by posing with his wife for *Vanity Fair* magazine and taking a very public role advising the Kerry campaign last fall. But the most serious charge that Wilson's critics level against him is the allegation that he was wrong in his assessment of Iraq's dealing with Niger. Supporters of Rove have revived this accusation in an effort to claim that, when Rove spoke to reporters about Plame, he wasn't trying to disparage Wilson so much as warn them off a "bad story." But what, exactly, was "bad" about Wilson's story?

Both the national security adviser and the CIA director at the time (Condoleezza Rice and George Tenet, respectively) issued public apologies for the Niger claim, admitting it was unsubstantiated. And the most authoritative report on the matter comes from the Iraq Survey Group (ISG), which spent a year combing the Iraqi countryside for alleged weapons of mass destruction. Its conclusion: "ISG has not found evidence to show that Iraq sought uranium from abroad after 1991 or renewed indigenous production of such material."

How can the administration and its allies be so cavalier about the truth? Because that's the way they've operated all along. As numerous press accounts (including in these pages) have shown, when the intelligence bureaucracy questioned arguments that Saddam posed an imminent WMD threat, the White House intimidated would-be dissenters within the intelligence community: Dick Cheney paid personal visits to CIA headquarters at Langley, sending a message to analysts who might buck the party line, while Pentagon officials actually set up their own parallel intelligence office to get around CIA bureaucrats with the temerity to question inflated claims of Saddam's nuclear capability.

Of course, the skeptics turned out to be right; as even most supporters of the war (this magazine included) now acknowledge, the publicly stated rationale for war was false. A prosecutor can't indict the administration for those sorts of transgressions. Only the public can. ■

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

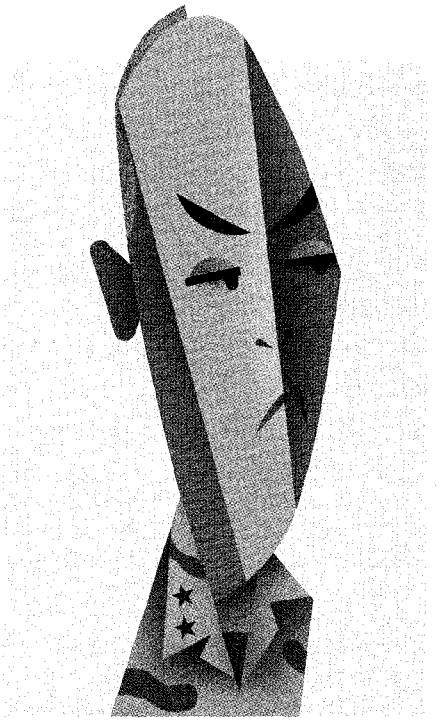
NOTEBOOK

GITMO COMMANDER: GIFT FOR GUILE . . . LESTER CRAWFORD: IN DENIAL

"CREATIVE" TESTIMONY

A REPORT RELEASED LAST WEEK examining charges of abuse at Guantánamo Bay, conducted by Generals Randall Schmidt and John Furlow, portrays Major General Geoffrey Miller, the former head of the detention facilities at Gitmo, as a deeply irresponsible commander. On his watch, detainees were paraded around on leashes while forced to perform "a series of dog tricks," shackled by their hands to a bolt in the floor, and subjected to various kinds of sexual manipulation. By his own admission, Miller, as Schmidt euphemistically told a Senate panel last week, "failed to monitor the cumulative application of the creative interrogation techniques" in the questioning of the alleged would-be twentieth September 11 hijacker, Mohammed Al Qatani. This was despite the fact that Miller had been "expressly told by FBI agents of their concerns about the dangers" of the interrogation methods being used. What's more, Miller's statement to Schmidt and Furlow that he was unaware of what was going on in Qatani's interrogation is "inconsistent" (as military types might say) with a January 21, 2003, letter to his boss, U.S. Southern Command's General Bantz Craddock, which says that he "approved the interrogation plan in place and it was followed 'relentlessly by the command.'" Schmidt and Furlow recommended that Miller "should be held accountable"—a recommendation that Craddock promptly and inexplicably overruled.

Now, it turns out that Miller may have done more than mislead Schmidt and Furlow. He may also have misled Congress as well. In May 2004, Miller testified to the Senate Armed Services Committee that, after he had controversially visited Iraq to recommend "Gitmo-izing" detention operations there, he "had no direct discussions with [Undersecretary of Defense Steve] Cambone or General [William] Boykin," Donald Rumsfeld's top intelligence aides. Sadly for the general, a *Chicago Tribune* reporter recently obtained Miller's August 21, 2004, statement to attorneys for guards charged with prisoner abuse. "Following our return in the fall, I gave an outbrief to both Dr. [Paul] Wolfowitz and Secretary Cambone," Miller stated. "I went over the report that we had developed and gave them a briefing on the intelligence activities, recommendations, and some recommendations on detention operations."



Geoffrey Miller

On May 11, 2004, Cambone flatly told Senator Jack Reed, "I was not briefed by General Miller." But was he? When last we caught up with Cambone (see Spencer Ackerman, "Power Grab," June 21, 2004), he refused to answer questions about Abu Ghraib. Miller has been similarly tight-lipped. Perhaps that's because his congressional testimony was just as "creative" as the interrogation techniques he approved at Gitmo.

HOME SCHOOLED

LAST WEEK'S DISCLOSURE THAT three of the four bombers in the July 7 London attacks were of Pakistani origin—and that one had recently spent significant time back in the home country—should have provided a nice opportunity for Islamabad to own up to its role as a major breeding ground for militant Islam. But no. According to the country's U.N. ambassador, the real problem lies with Great Britain. "In this instance, it may be Pakistani roots, if you wish," said Ambassador Munir Akram. "But we have to look at the root causes in the society in which they, the bombers, were born." No one says Britain is free of religious and racial tensions. But Britain has been home to a sizable Muslim and South Asian population since World War II. Yet it is only recently that elements of those populations have become radicalized. And who, one might ask, has done the radicalizing? Why, in many cases it's Pakistani *madrassas*, which either train imams who then travel to Britain or host the thousands of young British-born Pakistanis who visit the country each year. The bulk of those *madrassas* and their graduates are peaceful. But, according to an official with Pakistan's own intelligence service, one of the bombers, Shehzad Tanweer, had spent significant time at a radical *madrassa* run by a banned fundamentalist organization. And, while the government officially disputes the specifics of Tanweer's visit, it does not dispute that radical *madrassas* operate with tacit impunity throughout Pakistan, indoctrinating students in an ideology that not only condones but promotes attacks like those in London. Sure, life isn't perfect for British Muslims. But British society at least tries to ameliorate racial tensions through dialogue and tolerance. To understand why a small but dangerous minority now turns to violence instead, Akram ought to look closer to home.

DAVID COWLES

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

CONFIRM AND DENY

FINALLY, SOME GOOD NEWS FOR John Bolton! There should be lots of extra space for him in confirmation purgatory after this week. On Monday, Dr. Lester Crawford, President Bush's nominee for FDA chief, finally got the Senate's OK, after months of hand-wringing debate and delay.

Since his nomination, the good doctor has been much maligned by accusations that he had conspired to prevent over-the-counter sales of the morning-after contraceptive, Plan B. Sure, there was something odd about the fact that the agency, under Crawford's acting leadership, overruled a panel of experts to keep the pill prescription-only. And, yes, there was something odder still about the fact that the FDA simply ignored the manufacturer's revised application to switch Plan B to an over-the-counter med. And, as Planned Parenthood has helpfully pointed out, Crawford, unlike every other FDA chair since 1981, is not a physician. He's a veterinarian and a pharmacologist.

The Senate, however, seems to have been untroubled by these quirks and confirmed Crawford by a very comfortable 78-to-16 margin. But not everyone was happy. "It is becoming more and more obvious to me that [the] FDA is plagued by structural, personnel, cultural, and scientific problems," Iowa Republican Charles Grassley complained. "Those problems should be equally obvious to Dr. Crawford, but, under the [acting] leadership of Dr. Crawford, the FDA appears to be in a state of denial." Yes, but denial is what they do best.

DEPARTMENT OF CORRECTIONS

RYAN LIZZA'S "TERM LIMITS" (June 27) mistakenly stated that George W. Bush was the first presidential candidate in twelve years to receive more than 50 percent of the popular vote. He was the first presidential candidate in 16 years to do so. We regret the error. ■

TNR.commentary

&c.

THE CURRENT KHARTOUM GOVERNMENT: The July 9 inauguration of a new Sudanese "government of national unity" (GNU) has appropriately received a good deal of news coverage. The GNU represents the culmination of an arduous peace process going back almost a decade and the formal end to war in southern Sudan, perhaps the most destructive conflict since World War II. As many as 2.5 million people have died since war in the south resumed in 1983—and likely over 4 million if we consider the earlier phase of the civil war (1955–1972). Some 5 million people were displaced—Sudan has the world's largest population of internally displaced persons—and southern Sudan was utterly devastated.

John Garang, leader of the southern Sudan People's Liberation Movement/Army, has been inaugurated as first vice president in the GNU, and the assumption in many quarters is that Garang—as someone long sympathetic to the cause of Sudan's marginalized peoples—will use his new position to help end genocide in Darfur. This assumption is not only facile, but it expediently ignores the genocidal past of the National Islamic Front (NIF), which retains key powers in the GNU: the presidency, a guaranteed majority in the national assembly, ministerial posts, and—critically—control of the army and security forces.

The NIF, which has attempted to rename itself the innocuous "National Congress Party," is essentially unchanged since it seized power from a democratically elected government in a 1989 military coup, deliberately aborting Sudan's most promising peace process since independence in 1956. With the exception of Islamist ideologue Hassan Al Turabi—the mastermind of the 1989 coup who split with his former allies and is no longer part of the government—the same brutal men still control the NIF today. Field Marshal Omer El Bashir retains the presidency, and Ali Osman Taha—arguably the most powerful man in Sudan—serves as vice president and controls the terrifyingly efficient security services. Nafie Ali Nafie, Gutbi Al Mahdi, and other longtime members of the NIF serve in various advisory capacities. And Major General Saleh Abdallah Gosh, recently flown to Washington by the CIA, is head of the Mukhabarat (Sudan's intelligence and security service), even as he is among those members of the NIF whose names were referred to at the International Criminal Court in the Hague for crimes against humanity in Darfur.

These are the men who settled on a genocidal response to the insurgency movements that emerged in Darfur in early 2003. But the NIF's history of genocide goes back much further than the current catastrophe in that western province. Animated by a radical Islamism and a sense of Arab racial superiority, the movement engaged in genocide almost from the time it seized power. In August of last year, seasoned Sudan watcher Alex de Waal of the British group Justice Africa wrote for the *London Review of Books* what remains one of the best overviews of the Darfur crisis. In the piece, he observed that genocide in Darfur:

> is not the genocidal campaign of a government at the height of its ideological hubris. ... This is the routine cruelty of a security cabal, its humanity withered by years in power: it is genocide by force of habit.

In fact, as de Waal noted in his piece, the Sudanese regime has resorted to genocide at least twice before. As part of a ghastly jihad, the NIF brought suffering and destruction to the Nuba Mountains, a culturally distinct part of the southern Kordofan province in northern Sudan that was politically allied with southern Sudan. It conducted relentless military assaults on civilians and enforced a humanitarian aid embargo that lasted for more than a decade.

The same men ordered the scorched-earth clearances of the oil regions in southern Sudan to provide security for the operations of international oil companies. The systematic civilian destruction in the oil regions (primarily in the Upper Nile province) has been chronicled by many international human rights groups. The actions of oil companies from Canada, Sweden, Austria, China, Malaysia, and India—directly supporting the NIF regime—constitute one of the most shameful episodes in the long and terrible history of resource extraction in Africa.

The result of these policies was that, between 1989 and 2002, many hundreds of thousands of Sudanese were either killed or displaced. As in Darfur, the NIF regime settled upon a deliberate policy of human destruction, targeting ethnically African populations that had rebelled against, or were victims of, decades of political and economic marginalization.

—Eric Reeves

ERIC REEVES, A PROFESSOR OF ENGLISH LANGUAGE AND LITERATURE AT SMITH COLLEGE AND AN EXPERT ON SUDAN, IS GUEST-BLOGGING &C. TO READ MORE OF HIS POSTS GO TO WWW.TNR.COM.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

Anticipating withdrawal.

Eyeful in Gaza

BY MARTIN PERETZ

THE GAZA STRIP

THE GREAT CLASHES that had been expected between the Israeli territorialist right and the Israeli army and police have not materialized. As in any massing of tens of thousands of fervent demonstrators eager to make history, there have been dust-ups with those charged with keeping the peace, but nothing serious. Still, as a friend in the defense forces put it to me yesterday, "Nothing has happened until something happens." Up to Wednesday evening, Netivot and Kfar Maimon outside Gaza, the two assembly points for the marching true believers who think their arrival at the Jewish settlements within Gaza will keep the Israel Defense Forces from pulling the settlers out, remind me of staging areas for a rock fest, except that there was much more *klez*. Some fervent prayers were piped aimlessly out over the sound system. Youngsters were throwing frisbees around on the grass. Here and there, chess players pondered their boards. Then, by nighttime, police and military cordoned off the gathering place. Some demonstrators threw punches, injuring two officers. Mounted cops moved in, and others arrested 18 firebrands. Some especially grim-looking men and women placed themselves to be seen, with orange-colored swaths bound around their mouths to symbolize the government's efforts to silence them. Orange is this year's color of massed dissent, and it is certainly the color of this movement, but nobody could tell me why. I was reminded of Jimmy Carter's pathetic yellow ribbons. Maybe such bits of dyed cloth are the sure signs of losing movements.

This *is* a losing movement, whether the marchers do or do not ultimately reach Gush Katif and the other clusters of Jewish habitation in the Gaza strip. It is a desperate last effort by the settler movement, and the government has been rough with it, especially when the discipline of the military has been challenged. Nobody has truly been silenced, to be sure—not in the press, nor in the parliament, nor in the streets. At Netivot on Monday night, actual generals with real and significant commands mixed easily with everyone and heard some earfuls. This was not, in any sense, a field of battle. There weren't even bodyguards for the high brass mulling around. But Gaza-bound bus traffic from around the country, within the Green Lines and without, had been impeded everywhere or simply halted. In a kind of epiphany of democracy, civil liberties lawyers, and men and women of the left, were already in the high courts to shut down the shutdown of the right. I cannot imagine they will win. No one can deny the government, with the overwhelming support of parliament, the authority to prevent a demonstration in a territory that it intends to leave to others, especially where there is the clear and present danger that blood will flow. One well-respected general observed, "The demonstrators are only now realizing what they cannot accomplish here."

BOTH SIDES IN this contretemps are waging psychological warfare. The settler camp lapses into the crude Nazi analogy almost by reflex. A JEW DOES NOT EXPEL A JEW: the slogan is plastered almost everywhere. But that is exactly not the point. If expulsion means what it meant throughout Jewish history in the exile, the Gaza disengagement is emphatically not that. It is a project of Jewish sovereignty for Jewish political and military ends. It may be mistaken (I don't believe it is), but it is not made to fulfill the purposes of an enemy power. And, since this Jewish sovereignty is democratic, the minority must honor the process that gives it its practical rights in the first place. There is a division among the settlers. The West Bank settlers are more extreme than the Gaza farmers, in the first instance because the Gaza farmers have an intimate bond with the land. They have loved it with the sweat of their brows. Many of them are religious agrarian hippies. By contrast, most of the settlers between Jerusalem and the Jordan River are urban folk who commute to coastal cities from their Biblical addresses. But it is incontrovertible, I think, that their towns and villages are strategically more significant to the security of Israel, which may explain the settlers' desperate view that the surrender of Gaza is only the first such surrender to the Palestinians.

Judea and Samaria—not Gaza, which was the land of the Philistines and, for Jewish consciousness, can bask only in Samson's locks and David's slingshot—are where early Jewish history was written. It is hard to imagine two former chief rabbis, one Ashkenazi, one Sephardi, instructing religious soldiers to disobey orders as a way to undermine the departure from Gaza, but the surrender of Gaza may loom for them as a terrible precedent in other places. Yet the call of spiritual figures upon men and women in the military to break discipline is a profoundly subversive act that severs the compact between the secular Zionist state and religious Zionism. Some years ago, there was a demand among ordinary Israelis that the religious no longer enjoy an exemption from military service, for which the religious parties fought zealously; but arrangements were made for others to both serve and study (or pray), each half-time, and this was seen as a partial triumph for Israeli liberalism. A learned and influential friend cautioned me (and warned others) that this was folly, that guns should not be put in the hands of ultra-religious men lest they be turned against fellow citizens, and that units made up only of the religious would undercut the cross-cultural ethos upon which the army depends. This has not happened. The numbers of those who have walked away from their duty are very

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

small. Yet the dependability of the army has been challenged by rabbinical fanatics. We will see how much damage they do. I trust that most of the harm will be to themselves and their causes.

The psychological tactics of government forces are much more delicate. Wherever possible, soldiers from the settlements are being used to coax the protestors to desist and will be used to try to persuade the settlers to leave without a fight. The teams that will go into the 21 Gaza villages will be unarmed but trained in the arts of suasion and sympathy. Every group will have roughly 20 percent women. There will be no new army recruits. The operations will rely on captains, majors, lieutenant colonels, married with kids. As an act of solidarity among farmers, the kibbutz movements—all left-wing—have dispatched volunteers to help the settlers dismantle the salvageable infrastructure of their agricultural achievements.

The fact is that these are extraordinary achievements. A reliable friend told me that Gazan Israelis—numbering 9,000 at most, including children—produced roughly 12 percent of the country's agricultural produce. And they did so in the midst of relentless barrages of Palestinian mortar, rockets, sniping, and terrorism. And they have employed 3,500 Palestinians. Crazy? Maybe yes. Provocative? Also yes. But admirable in their way, too. They made—how can I say this without laughing at myself?—the desert bloom.

The burning question is: Whose desert? Given the sheer numbers, it is the Arabs' desert. And it will remain the Arabs' desert. Of course, there are Arab farmers, and they *also* plant strawberries, lettuce, cucumbers, tomatoes, flowers, some now even good enough for European markets, also a consequence of Israeli agriculture as intimate exemplar. But the brutal forward history is that Gaza will remain backward, even though a group of American investors—mostly Jews, of course!—will invest between $300 and $500 million in its industry. For some of these, this is not their first venture in doing good in Gaza. There is a pathos to their doing good. Somehow, the production of cane furniture for export to Greece does not really seem like much progress. To be sure, the European Union—and the United States, for that matter—will invest, too, and make loans, and even insist on the probity of accounting procedures. But a population that has lulled itself into living off the U.N. refugee dole and blamed all its misfortunes on the Jews for more than a half-century is not likely to stir itself from its misery. Contrary to what you have heard, Gaza is not the most densely populated area in the world; this false statistic is deployed as an excuse for failure in advance, to dazzle by the sadness of it all. In a way, today's Gaza has always been Gaza, and its miseries, like the miseries of the whole Arab world, are mainly self-inflicted.

And the self-inflictions go on. In addition to aiming rockets (sometimes a hundred a day) into the soon-to-be-gone Jewish settlements in Gaza and into Israel, the Gaza Palestinians are fighting among themselves, extolling their martyrs, and reviling their opponents. Mahmoud Abbas knows he could not win elections in Gaza and fears he cannot win the West Bank, either, and so he has rescheduled them for some time indeterminate. Abbas is desperate that the Israeli settlers not leave their homes intact because they would be instantly inhabited by Hamas militants, their green flags of inflammatory piety fluttering above.

MAYBE THE ISRAELIS should not care what happens to Gaza after they are gone. But, as the dovish Yoel Marcus wrote in the dovish *Haaretz* on Tuesday, Gaza is a "pilot project" for a wider peace between the Israelis and the Palestinians, a model. I will hazard a prophecy: The morning after the Israeli pullout from Gaza, the terrorism against Israel will intensify. Of course, there is still the quite effective fence that kept the suicide bombers within Gaza. But now the mortar shells and the bullets will be dispatched from anywhere within Gaza—and at the whim of the Gazan warriors. I went to the Philadelphia demarcation line between Gaza and Egypt. It is maybe 50 meters in depth, and it is under this tiny swath of territory that the tunnels for weapons destined for the Palestinians have been built. This has been a big business for Egyptian gunrunners while the Israelis were still manning Philadelphia. It is not yet clear whether the Israelis will withdraw from this perimeter. It is certainly very hard to maintain. My guess is that they will leave Philadelphia, too. But would you trust Cairo to destroy the channels for contraband arms?

If any Palestinian regime actually governs Gaza, its axiomatic well-wishers in the world will soon embark on the financing and construction of a modern port and the reconstruction of a modern airport. That's where the trouble really starts. It is the beginning of a real weapons industry, weapons that will not be kept in storage. It will not be long, then, before the IDF is back in Gaza. And it will be much longer still before the pilot project of Gaza will be extended to the West Bank. Israel will surely depart sections of the West Bank, unilaterally and according to its own cartography of security. But the Israelis will be doomed to live dangerously. They can withdraw from Gush Katif and later from Ofra or Beit El, but they cannot withdraw from the world in which they live. Old borders, new borders: There will be no end to Israel's vigilant existence. With or without diplomatic progress, the country will live by its wits and by its nerves. ■

Class Action
Give The New Republic to your favorite student.
Subscribe at www.tnr.com/gift

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

Incremental change on the Court.

Bottoms Up

BY JEFFREY ROSEN

MOMENTS AFTER President Bush announced the nomination of John Roberts to the Supreme Court, liberal interest groups were attacking Roberts as a conservative ideologue. "In reality John Roberts may be a hard-nosed extremist with a soft conservative façade," wrote the Leadership Conference on Civil Rights. "In short, the President may have nominated a stealth candidate—a Justice [Antonin] Scalia or [Clarence] Thomas in [Sandra Day] O'Connor's robes."

The question of Roberts's judicial philosophy—is he a conservative ideologue with a transformative agenda or a conservative incrementalist with a judicious temperament?—should indeed be the central question for senators to explore in Roberts's confirmation hearings. The difference between an agenda-driven conservative ideologue and a conservative incrementalist is notoriously difficult to define. But Dean John Jeffries of the University of Virginia School of Law provides a tool for identifying the difference by distinguishing between "top-down" and "bottom-up" judges. Top-down judges start with well-developed ideological commitments and apply them to the merits of each case. Bottom-up judges are more engaged by the facts of each case and are willing to follow the relevant legal precedents in whatever direction they happen to lead. Scalia, Thomas, and the liberal activist William O. Douglas are examples of top-down judges; Lewis Powell, Sandra Day O'Connor, and the conservative incrementalist John Marshall Harlan are bottom-up judges. "Top-downs say bottom-ups are unprincipled, and bottom-ups say top-downs are rigid and closed-minded, and both are probably right," says Jeffries.

Although there are important differences between them, Scalia and Thomas are top-down judges who believe that the Constitution should be interpreted in light of its original understanding and are willing (Thomas more than Scalia) to overturn decades of precedents that clash with their vision. Roberts, by contrast, has never openly embraced originalism as the touchstone of constitutional fidelity. He has been guided at every stage of his career by an effort to apply existing precedents rather than to transform them. So there are at least preliminary reasons to hope and expect that he may be a bottom-up, conservative incrementalist.

AS A SUPREME Court justice, of course, Roberts would be entirely free to overturn precedents with which he disagrees. The Senate should explore in detail his views about *stare decisis*, the legal doctrine that says "let the decision stand." Since his judicial record is sparse, senators will have to look for clues elsewhere. Happily, Roberts's writings, from his days as a college student through law school, and later as an appellate advocate and judge, suggest an aversion to grand theorizing that might lead him to take an incremental, rather than a radical, approach to constitutional change.

Roberts's dislike for broad, top-down theories is evident in his earliest writings. At Harvard College, he wrote his summa cum laude undergraduate thesis on the relationship between ideology and political change. In it, he demonstrated a Burkean interest in the way political movements evolve over time, rather than conforming to rigid ideologies imposed from above.

At Harvard Law School, Roberts wrote a student note on the Takings Clause, in which he rejected a rigidly literal interpretation of the Fifth Amendment's guarantee that private property shall not be taken for public use without just compensation. "The very phrase 'just compensation' suggests that the language of the clause must be informed by changing norms of justice," Roberts wrote in a passage that should gladden liberal hearts. Rejecting as too subjective and vague a series of tests that courts had applied over the years, Roberts endorsed a "constrained utility model" for identifying unconstitutional takings. Building on the work of the great liberal constitutionalist Frank Michaelman, Roberts said that people made "insecure" by regulation should be compensated accordingly. More significant than the details of Roberts's youthful effort is the fact that he was not drawn to the rigidly libertarian, historically based vision of the Takings Clause that Thomas has embraced. Nothing in Roberts's note suggested a desire to resurrect what some libertarian activists call the Constitution in Exile—limitations on federal power that have been dormant since the New Deal.

In another student comment, Roberts rejected a literal interpretation of the Contracts Clause, which provides that "No state shall ... pass any ... law impairing the obligation of contracts." As in his earlier article, Roberts criticized Justice William Brennan's textualist approach, arguing that "constitutional protections ... should not depend merely on a strict construction that may allow 'technicalities of form to dictate consequences of substance.' " Although liberal interest groups have attacked Roberts's youthful writings as a sign of his willingness to ignore the text of the Constitution in an effort to side with corporations and wealthy property owners, these writings are more illuminating as evidence of the fact that he has never been drawn, from his earliest days, to top-down ideologies.

As a Supreme Court advocate, Roberts's most notable quality was his willingness to represent both sides of the political spectrum, unlike more ideologically driven advocates like Ted Olson, the former solicitor general. In addition to arguing on behalf of environmentalists, he was retained by primarily Democratic state attorneys general to represent their position in the Microsoft antitrust case. For Roberts,

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

the willingness to argue any side of a legal question is a testament to his belief in the power of reason. Rather than seeing himself as a partisan, he prides himself on being a neutral lawyer, willing to use his professional talents to apply a given body of law, regardless of his own political views.

Like the best lawyers and judges, Roberts is just as engaged by technical cases involving Federal Energy Regulatory Commission regulations as he is by the most visible constitutional issues. He is clearly moved by the idea of law as a professional and constraining force. There are, he believes, good legal arguments and bad legal arguments, and the best test of an idea is its power to persuade judges of very different ideological dispositions to work toward the right answer. In an interview in 2002, he told me: "If I were inclined to do something that I would find politically satisfying and that I didn't feel I could adequately defend in an opinion, it would embarrass me to put that out in front" of a judge. Roberts's faith in the power of legal argument is characteristic of a bottom-up, rather than a top-down, judge.

Roberts's own judicial models appear to be bottom-up judges. He admires Robert Jackson, FDR's attorney general, who distinguished himself on the Court as a beautiful stylist and passionate defender of deference to legislatures. And one of his judicial heroes is Judge Henry Friendly, for whom he clerked. Friendly was the model of a cautious conservative incrementalist rather than a crusading ideologue, a believer in procedural barriers to litigation who suspected activists of all stripes seeking to use the courts as instruments of social change.

One way of exploring Roberts's vision of the force of legal precedents might be to focus on his views about Congress's power to regulate the economy and other issues associated with the libertarian movement to resurrect the Constitution in Exile. As an appellate judge, Roberts's record on these questions is hard to discern. In one case, he took a traditionally generous view of Congress's power to condition the receipt of federal funds on a state agency's willingness to waive its immunity from discrimination lawsuits. But, in another case, he questioned whether an application of the Endangered Species Act was constitutional under Congress's power to regulate interstate commerce. The second position was more radical than the first under existing law, and both point in very different directions.

In interviews, Roberts has suggested that he believes the Commerce Clause imposes at least some limits on congressional power—a position that is now conventional wisdom among conservatives. In a 1999 interview on NPR, Roberts said of the recent Supreme Court decisions restricting the scope of federal power: "I think the three decisions taken as a group are a big deal. It's a healthy reminder that we're a country that was formed by states and that we still live under a federal system. It's the United States of America. And what these cases say is, just because Congress has the power to tell individuals and companies that this is what you're going to do, and if you don't do it, people can sue you, that doesn't mean they can treat the states the same way; that the states as co-equal sovereigns have their own sovereign powers, and that includes, as everyone at the time of the Constitutional Convention understood, sovereign immunity."

Nevertheless, in other interviews, Roberts has suggested that, although he thinks the Court can legitimately strike down an occasional federal law as exceeding Congress's commerce powers, he has no interest in joining the Constitution in Exile movement in a sustained assault on the regulatory state. In our interview, he left me with the impression that he thought it might be a good thing for the Court, at least once in 30 years, to strike down a federal law in a way that forced Congress to focus more closely on the reasons for its regulations, but that much more frequent invalidations would be inappropriate.

Identifying Roberts's vision of *stare decisis* will be a difficult task for Senate Democrats. It's likely that he hasn't yet had the opportunity, as an appellate lawyer and lower-court judge, to think hard about the question: In both roles, he was forced to apply Supreme Court precedents, whether he liked them or not. But focusing on Roberts's views about the force of precedent is a far more effective line of inquiry for Democrats than trying to dredge up his private memos as a government lawyer in an effort to discern his political views. Everything we know about judicial confirmations tells us that justices reveal themselves most candidly when they are asked to discuss their judicial philosophy rather than confronted with crude yes or no questions about whether they would uphold *Roe* v. *Wade* or some other specific ruling. In his confirmation hearing, Justice David Souter talked openly of his admiration for Justice John Marshall Harlan II, the great conservative traditionalist who revered precedent above all and unapologetically embraced the right to privacy. Anthony Kennedy, for his part, revealed himself as an expansive libertarian with a broad suspicion of state power.

Given Roberts's dazzling talents—his intelligence, judgment, devotion to legal craft, and palpable belief in the power of reasoned argument to constrain judges in meaningful ways—it seems quite possible that his vision of the force of precedent might evolve and grow during decades on the Court. I don't mean "evolve" in the sense that liberals hope and conservatives fear—that Roberts will become less conservative and more liberal. I mean, instead, that the application of his determined intelligence to the hardest and most elusive questions of constitutional law will lead Roberts to develop a vision of constitutional stability that is uniquely his own. What precisely his vision will be is probably not evident at the moment, even to Roberts himself. But, by focusing on Roberts's judicial philosophy, rather than his views about the controversies of the moment, the Senate can do much to illuminate this crucial question in the confirmation hearings ahead. ■

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

A liberal spoils for a fight.

Secret Passion

BY MICHAEL CROWLEY

"WE DID *NOT* want a fight," Ralph Neas was saying to a reporter on his cell phone. "However, if he picks a fight, *we are ready*." It was the evening of July 19, less than an hour before word leaked that George W. Bush would nominate John Roberts to the Supreme Court. Neas was sitting in the green room at MSNBC, waiting for his appearance on "Hardball." It was the first of three TV studios he would blaze through in the next four hours as a go-to pundit on the nomination. As president of People for the American Way (PFAW), the liberal civil rights group with immense influence among both grassroots activists and the Senate majordomos, Neas may pose the greatest threat to Roberts's path into history.

And he loves it. Oh, he'll tell you it's a "myth" that judicial activists relish confirmation battles. He'll remind you that everything he holds dear is at stake. He'll insist it's never fun trying to stop someone from getting a job. But clearly it can be. There is a theatrical quality to such fights in Washington that makes short-term national celebrities out of certain activists, such as Neas, who normally spend their time slogging in the C-SPAN trenches. Like a cicada, Neas surfaces once every few years to sing his liberal fight songs for a national audience. And the irony of his life is that the bigger the threat to his ideological worldview, the more enjoyable his job becomes.

HAVING FINISHED HIS call—one of perhaps 20 he would make to reporters throughout the night—Neas began to pace the green room like a star college athlete on draft day. After a long day of obsessive rumor-mongering about "the two Ediths" and J. Michael Luttig's suspiciously dapper outfit, the anticipation of Bush's actual pick was growing unbearable. Neas began free-associating out loud. "You know who would be a real surprise? Miguel Estrada!" he offered, referring to the bitterly contested 2001 Bush appellate court nominee.

Into the green room sauntered Ben Ginsberg, the Republican superlawyer with whom Neas would be sparring on-air in a few minutes. Quite unlike Neas, Ginsberg radiated total calm. It felt highly symbolic of today's Washington: the self-assured Republican who knows all the secrets and the manic, paranoid Democrat awaiting the next unpleasant surprise.

"So, Ben, you think Estrada's got a chance?"

"Yeah, everyone's got a chance," Ginsberg said, flashing a Mona Lisa grin. He filled a cup of water and strolled off.

There was a silence, which the hyper-talkative Neas felt compelled to fill. "I predicted [the retirement of] O'Connor six weeks ago!" he declared. "I don't remember saying it—but someone at *The New York Times* told me it's in their notes." Neas departed and then emerged a few minutes later with another scrap. "Ben Ginsberg said it will be a surprise!"

You might expect Neas to be calmer in such circumstances. After all, the 59-year-old is a veteran of nine Supreme Court nominations over 30 years and was the main organizer of the liberal D-Day against Robert Bork's 1987 nomination. He's tight with key Senate Judiciary Committee Democrats. Ted Kennedy once referred to him on the Senate floor as "the 101st senator for civil rights." *The Wall Street Journal* recently editorialized that, "[w]hen it comes to judicial nominations, Mr. Neas might as well be the one and only Senator. The 10 Democrats on the Judiciary Committee salute and follow [his] orders." During a 1991 battle over a civil rights bill, the first President Bush derided Neas as "some self-appointed guy up there in Washington who calls all the shots." Even if he won't say so, such insults clearly delight Neas; his official bio proudly notes that "he has been personally criticized more than 50 times" by the *Journal*.

Look for plenty more Neas-bashing in the weeks to come. While his punditry is the most visible part of his job—on Tuesday night his call sheet featured messages from 17 different reporters—it is PFAW's organizational tactics that will have the greatest impact on the upcoming struggle over Roberts. "He has an amazing ability to translate his talking points into comments on the Senate floor," one aide to a Republican Judiciary Committee member says. "He speaks, Dems jump." In what may or may not have been an example of this, later in the evening, I showed Neas an e-mailed statement about Roberts from Senate Minority Leader Harry Reid, which echoed many of the points Neas himself had been making all night. "Sound familiar?" he asked me with a knowing smile.

PFAW's reach extends well beyond the Senate's corridors. Neas's group boasts 400,000 followers who receive its e-mail alerts, and it guides more than 100 affiliates in its judicial coalition. PFAW also has a crack research staff on par with a presidential campaign's opposition-research team that is already poring through the entirety of Roberts's record. Neas will also have millions in advertising dollars to play with. PFAW aired $5 million in ads during the recent struggle over the Senate "nuclear option," a sum that could easily multiply during the Roberts fight. Neas has assembled a team of Clintonites and Democratic judicial veterans to supplement his group's full-time staff in the weeks ahead, including former Clinton White House spokesman Joe Lockhart, Kerry presidential campaign strategists John Marttila and Mike Donilon, and Ricki Seidman, who oversaw the 1992 Clinton campaign war room. Also, PFAW co-founder Norman Lear himself will help shape its media strategy. (The mastermind of "All in the Family" and "Good Times!" is "a brilliant communications person," Neas notes.)

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

FITTINGLY, NEAS WAS on live television—bickering with Ginsberg on "Hardball"—when he learned that John Roberts would be the most important person in his life this summer. He wasted little time joining the fight, warning of "some serious problems." Minutes later, in a chauffeured sedan on his way back to his office, Neas expanded his case for a CNN producer on his cell phone. "Our main statement tonight is going to focus on how disappointed we are that the president didn't name someone in the mold of Sandra Day O'Connor. What we know about John Roberts is that he is a darling of the radical right." He repeated this line over and over throughout the night. At one point, Neas did an interview with ABC News at PFAW headquarters. A television nearby was tuned to CNN, which was airing an interview with a Republican senator over a chyron that read, PEOPLE FOR THE AMERICAN WAY: "VERY DISAPPOINTED." "What's your reaction to John Roberts?" the ABC producer asked. "We were very disappointed," Neas began.

But Neas was not incapable of adapting his sound bites. Later in the evening, I handed him a BlackBerry with a posting from the conservative blog redstate.org that declared, "Conservatives love Bush tonight. Make no mistake about it. Certain conservative leaders, if they were not men, would be offering to bear further children for GWB tonight." Neas seemed not so much spooked as relieved to see this. "So it's not just me!" he said. Soon after, I heard him amend one of his stock quotes for a reporter, "If you look at the blogs right now, John Roberts is a darling of the radical right."

It was evident that Neas delighted in all this punditry and dashing about. He was like a candidate on the stump—even exhibiting the politician's habit of fastidiously thanking various security guards and limo drivers. (Neas has some experience with this; he made an ill-fated 1998 bid for Congress in Maryland.) At one point, I asked Neas how these nomination fights had changed over the years. He noted that, during the Bork wars, CNN was still in its infancy, and there was no such thing as e-mail or blogs. "Compared to 1987, everything's at warp speed," he said. Then he paused. "'Everything at warp speed' is not bad! I've never used that before."

As the night wrapped up, there was a feeling that the battle royale for which Neas had seemed primed might not be panning out. Most Senate Democrats were holding their fire, saying they would wait to ask tough questions in Roberts's confirmation hearings. On CNN, Aaron Brown had even asked Neas on-air if liberals really wanted to fight. Walking from the CNN studio to the sedan waiting to ferry him to the "Charlie Rose Show," Neas didn't seem willing to entertain the thought. "There's an ebb and flow to every nomination," he told me. He noted that people had expected the nomination of Alberto Gonzales as attorney general to be "a slam dunk," before Democrats began to rally against him.

"And Bolton," his press aide, Josh Glasstetter, offered.

"And Bolton!" Neas said, pleased by the thought. There was still hope. ■

White House Watch

Legal Theory

BY RYAN LIZZA

THE QUESTION THIS week is: Why did George W. Bush make such a seemingly responsible choice? There is little in the history of Bush's decision-making that would have predicted the president would settle on someone like John G. Roberts Jr. for the Supreme Court.

All of Bush's normal instincts were somehow kept in check. He did not, as had been predicted for four years, resort to cronyism and appoint his old friend, the mediocre Texas attorney Alberto Gonzales, whose chief qualification is supposedly the one Bush prizes above all: loyalty. Bush did not even give in to his much-cultivated anti-elitist, anti-Washington impulses. He is clearly no Nixon, who labored obsessively to find a nominee from outside the Northeast who would "stick it" to the Ivy Leaguers. Roberts grew up in Indiana but is a creature of Cambridge (Harvard College, Harvard Law) and Washington (Hogan & Hartson, the Justice Department).

Bush did not even pick someone with a particularly compelling life story. The president loves nothing more than telling the up-from-their-bootstraps tales of his Cabinet officials and lower-court nominees. When Mel Martinez was secretary of housing and urban development, Bush never tired of describing how, as a boy, Martinez was airlifted out of Cuba as part of Operation Peter Pan. He seems to love the tale of Condoleezza Rice's dignified resistance to segregation more than her foreign policy views. In introducing Roberts, the best Bush could do was shoehorn in an anecdote about how the judge spent summers in his youth working at a steel mill. (He didn't mention that Roberts's dad was an executive at that mill.)

Even more surprising is that Bush did not play identity politics. In picking members of his Cabinet, Bush has been obsessed with diversity, but his Supreme Court decision-making process seems to have been ruthlessly meritocratic. He did not, as Ronald Reagan did in 1981, order his staff to find a qualified woman for the position. Nor did he simply try to advance the GOP's Latino outreach program by choosing Gonzales or Emilio Garza. Bush will probably have another chance to pick a Latino justice, but, at the moment, Latino groups must be feeling slightly burned after four years of White House hints that Bush would put the first Latino on the Court.

Finally, Bush did not slavishly reward his base of evangelical conservatives. Some conservatives are describing Roberts as a "bold" choice. He is clearly not. His commitment to the social causes that animate the religious right is shrouded

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

in mystery compared with that of other potential nominees, such as Priscilla Owen, Edith Jones, Michael McConnell, or J. Michael Luttig. Some of the more rabid conservatives have started to point this out. On the fringes, there was Ann Coulter, who immediately penned an attack on Roberts's right-wing bona fides and hyperventilated about the fact that he has not vowed to ban abortion. "We don't know much about John Roberts," she sputtered. "Stealth nominees have never turned out to be a pleasant surprise for conservatives." Over at *The Weekly Standard*, Fred Barnes, perhaps the most pro-Bush columnist in America, posted some morning-after regrets, noting that Bush had made a "safe" choice rather than pick a true ideological conservative. *National Review*'s endorsement of Roberts was notably tepid. "He will, almost certainly," the magazine announced with some trepidation, "be an improvement on his predecessor."

These conservatives had reason to expect more. Bush's trademark, especially when it comes to his most high-profile personnel decisions, is to select hard-right nominees that spark polarizing debates and send Democrats into a spitting rage. He has done that with Dick Cheney, John Ashcroft, John Bolton, and many of his lower-court nominees. Considering the importance of the high Court to his most rabid supporters, there was every reason to believe that Bush would choose a more ideological conservative than Roberts. The corporate lawyer and former Reagan and Bush 41 official seems to have taken pains over the last 25 years to avoid any public expression of controversial views. During his Senate confirmation hearing in 2003 for his nomination to the D.C. Circuit, he dissociated himself from the cases concerning abortion and other sticky issues he participated in while deputy solicitor general in the first Bush administration. The more brass-knuckle and base-pleasing Luttig apparently made it to the end of the sweepstakes but was passed over for the more moderate, more even-tempered, and more easily confirmable Roberts. After 15 years of crying, "No more Souters!" religious conservatives have been presented with someone whose views on many social issues are as unknown to them as those of their judicial bête noire were in 1990.

Is the Roberts pick a sign of Bush's weakness?

CHARLES DHARAPAK/AP PHOTO

WHY, THEN, DID George W. Bush break with all of his known habits and instincts Tuesday night? For one, the Democrats' strategy of unified opposition and obstruction may finally have chastened the White House. Democrats have recently made life miserable for Bush. They have killed Social Security privatization and ground the rest of Bush's domestic agenda to a halt. They have eaten up weeks of valuable time in the Senate with their opposition to lower-court nominees. They buried John Bolton's nomination to be ambassador to the United Nations. Republicans warn Democrats that their obstructionism will cost them at the polls. Perhaps. But it also appears to have forced Bush into choosing a more conciliatory nominee. Bush seems to have calculated that, with the Iraq war, his failed domestic agenda, and even the Karl Rove scandal, he cannot afford a contentious confirmation battle. He seems to have been genuinely spooked by the Democrats' threat of a filibuster. If Sandra Day O'Connor had resigned in the immediate wake of Bush's reelection, one has to imagine that Bush would have picked a more mischievous jurist. So, while Senate Republicans are hailing the Roberts pick for its boldness, it may actually be a sign of Bush's current weakness.

Another theory is that the nomination process may have been controlled by slightly more pragmatic elements within the administration. In *Pursuit of Justices*, David Alistair Yalof's excellent book on how presidents choose Supreme Court nominees, the author notes that internal champions are always the most important factor. In 1981, Reagan's attorney general, William French Smith, became enamored of O'Connor and aggressively maneuvered her nomination through numerous obstacles, especially ideological ones, inside that administration. Later, Attorney General Ed Meese played a similar role as the driving force behind more conservative nominees who were successfully confirmed, such as Antonin Scalia and William Rehnquist, as well as the debacles of Robert Bork and Douglas Ginsberg. In the Bush administration, the two centers of activity for vetting Supreme Court nominees are now run by pragmatists, not movement conservatives. Attorney General Gonzales and White House Counsel Harriet Miers are workmanlike Texans who owe their careers to the president. Everything we know about them suggests they value Bush's political standing over the pursuit of ideological crusades.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

But their offices are also populated with much younger and more ideological lawyers. One of the factors that helped Roberts's name circulate around Washington as a Supreme Court contender was his insider status. Though not considered a real movement conservative, he is extremely well-liked by Washington's network of Republican lawyers, even, reportedly, by those who think his ideological credentials are a little suspect. Roberts is likely to have had many allies among the lawyers sprinkled throughout the White House and the Justice Department. The combination of Texas pragmatists, such as Gonzales and Miers, and Washington legal insiders may have been the perfect mix to vault Roberts to the top of Bush's list.

Finally, one can't dismiss the power of the personal when Bush makes a decision. Bush reportedly hit it off with Roberts, not an insignificant fact. In 1981, O'Connor charmed Reagan during her interview and cinched her nomination. Roberts is universally described as brilliant but modest, a characteristic Bush cherishes. Bush was also likely taken with the man's devout Catholicism and the fact that he has two adopted children. In the end, the politics of Bush's current dire situation, Roberts's internal champions, and his personal relationship with the president seem to have conspired to help Bush make one of the better and more atypical decisions of his administration.

The only similar big decision this recalls is Bush's needle-threading announcement on stem cells back in August of 2001. Then, as now, his political fortunes were sagging and moderate voices in the White House steered him toward a compromise position. As in that case, Bush seems to be getting most everything he wants. He is nudging the Supreme Court to the right. His nominee is likely to have a relatively smooth conformation process. His evangelical base won't revolt. Bush may even win some political capital to spend on the rest of his agenda. Perhaps he will learn that, sometimes, the politics of conciliation pay more dividends than the politics of confrontation. If so, John Roberts would truly be a historic choice. ■

Minimalism v. fundamentalism.

Minimal Appeal

BY CASS R. SUNSTEIN

EVEN AFTER HIS nomination to the Supreme Court, the president's nominee, John Roberts, remains a mystery. By all accounts, he's a wonderful person and a first-rate legal mind. But he has been a judge for only two years, and his public record is thin.

In order to determine what kind of justice he will be, it helps to understand the philosophical camps that have shaped modern constitutional theory. Over the past century, justices have come in four varieties. *Majoritarians* prefer to uphold the decisions of other branches of government unless those decisions clearly violate the Constitution. *Perfectionists* believe that, in order to perfect the Constitution, they should interpret it in broad terms that expand democratic ideals. *Minimalists* like small steps and prefer rulings in which the most fundamental questions are left undecided. And, finally, *fundamentalists* believe that the Constitution should be read to fit with the original understanding of the Founding Fathers; they are willing to make large-scale changes to established laws to return to that understanding.

A key question is this: With which camp does a nominee tend to align himself, and with what reservations? This is why the debate during Roberts's confirmation hearings should center on the different approaches—and their real-life implications.

MANY OF THE great social programs of the New Deal era were legitimated as a result of majoritarianism. Majoritarians want courts to stand aside, as they did during the New Deal, when many supporters of President Franklin Delano Roosevelt argued for a much weaker judicial role. But majoritarianism was best articulated some 40 years before by Harvard Law Professor James Bradley Thayer, who argued that, because the U.S. Constitution is often ambiguous, those who decide on its meaning must inevitably exercise discretion. Thayer's argument, in brief, was that courts should strike down laws only "when those who have the right to make laws have not merely made a mistake, but have made a very clear one—so clear that it is not open to rational question."

Amazingly, no member of the current Supreme Court is a committed majoritarian. But, if majoritarians were in control, it is likely that they would permit the government to ban same-sex sodomy, or, for that matter, opposite-sex sodomy. They would also permit the government to create affirmative action programs, or even racial quotas designed to increase the number of African Americans in colleges and graduate programs.

Among liberals, majoritarianism has lost its popularity, in part because of the approach of the Warren Court, which fell squarely into the perfectionist camp. Perfectionist justices want to interpret the Constitution to promote individual rights. Many perfectionists insist that the Court should protect those groups that are least able to protect themselves in democratic arenas. The Warren Court embraced perfectionism in its decisions striking down segregation,

This article is adapted from Cass R. Sunstein's forthcoming book, RADICALS IN ROBES: WHY EXTREME RIGHT-WING COURTS ARE WRONG FOR AMERICA.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

protecting privacy, and endorsing voting rights for blacks. Justices William Brennan, Thurgood Marshall, and William O. Douglas can all be described as perfectionists.

In the last decades, perfectionists have sought to use the Constitution to strike down bans on same-sex marriage, to create a right to welfare, and to give people a right to make medical decisions free from governmental constraint. On the current Supreme Court, perfectionism is hard to find, simply because the perfectionists of the Warren Court have no successors on this Court. Perfectionism can easily be found in the major law schools, but it is no longer a significant presence on the federal bench.

MINIMALISM, HOWEVER, IS still very much alive. Minimalists are conservative in the literal sense. They prize stability. They like small steps. They dislike ambitious theories, and they hope to do no more than is necessary to resolve cases. Justices Felix Frankfurter and John Marshall Harlan, great conservative voices on the Warren Court, were committed minimalists, deploring that Court's tendency to issue sweeping rules (as, for example, in decisions giving broad protection to free speech and the right to vote).

When President Bush speaks of "strict construction" and compliments Justices Antonin Scalia and Clarence Thomas, he seems to be endorsing a controversial approach to constitutional law, one that would require radical revisions in our practices. Minimalists like Frankfurter do not like radical revisions. They try to avoid the deepest questions about the meaning of the free speech guarantee, the extent of the Constitution's protection of "liberty," what it means to respect the "free exercise" of religion, or the scope of the president's authority as commander-in-chief of the Armed Forces.

Minimalists have no desire to revolutionize the law by reference to first principles. They think that law, and even social peace, are possible only because people set aside their deepest disagreements and are able to decide what to do without agreeing on exactly why to do it.

Minimalists celebrate the system of precedent in this spirit. Judges may not agree with how previous judges have ruled, but they can agree to respect those rulings—partly because respect promotes stability, and partly because respect makes it unnecessary for judges to fight over the most fundamental questions whenever a new problem arises. For example, some liberal judges believe that affirmative action programs should always be upheld, and some conservative judges believe that such programs should always be struck down. But, if judges respect precedent, they will not simply follow their own judgments; they must pay heed to what others have said before them. Minimalists are cautious about undoing the fabric of existing law.

By itself, minimalism is a method and a constraint; it is not a program, and it does not dictate particular results. We can easily find liberal minimalists and conservative minimalists. Justice Ruth Bader Ginsburg's approach to the law is complex, but it is fair to describe her as a liberal minimalist. She likes to decide cases, rather than set out general principles; and she is reluctant to embrace large-scale generalities about the foundations of the law. Conservative minimalism is nicely captured in the opinions of Justice Sandra Day O'Connor. O'Connor wasn't a part of any movement. But, much of the time, her votes were in a conservative direction. She has contributed a great deal to decisions limiting affirmative action and increasing government's power to protect fetal life; but she has refused to vote to forbid affirmative action in all circumstances or to overrule *Roe* v. *Wade*. Minimalists are cautious by nature, and the minimalist camp is large and diverse. The point is that they greatly prefer nudges to earthquakes.

Justice John Marshall Harlan was a committed minimalist.

FUNDAMENTALISTS ARE RADICALLY different. They are committed to "originalism" and treat that commitment as a fighting faith. If the Constitution was not originally understood to ban sex discrimination or protect privacy, the legal question is resolved. Fundamentalists know that current constitutional law rejects their own approach, and they tend to feel angry and even embattled about that fact. For this reason, fundamentalists have radical inclinations. Thomas is the best example here; Scalia, who often accepts precedents, is more cautious. Many fundamentalists do not want to make huge changes immediately, but they hope to make them sooner rather than later.

Fundamentalists have long had a clear agenda for the federal judiciary. They consider themselves part of a movement with identifiable goals, which include the overruling of *Roe* v. *Wade*, the strengthening of presidential power, the elimination of the right of privacy, the invalidation of

AP PHOTO/STF

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

affirmative action, the creation of new limitations on congressional power to regulate the economy, and the strengthening of property rights. Because Scalia and Thomas are plainly committed to fundamentalism, they can aptly be described as "movement judges." To their great credit, they usually follow their own preferred method. They take the historical materials very seriously. But serious fundamentalism would change the country as we know it. It would mean that the federal government could discriminate on the basis of race and sex. It would eliminate the right of privacy. It might well mean that states could establish official churches. It might even raise serious questions about the Federal Communications Commission and the Clean Air Act. It could do a lot more.

At the same time, there are a number of important areas in which fundamentalists seem to follow their own partisan convictions rather than the original understanding. To take just one example, fundamentalists (including Scalia and Thomas) have voted in favor of striking down affirmative action programs without even bothering to investigate the question of whether such programs are inconsistent with the original understanding of the Fourteenth Amendment. (They aren't.) Here we can find false fundamentalism hiding behind the Constitution to impose judges' own political values. Unfortunately, false fundamentalism is not hard to find.

THE DEBATE BETWEEN fundamentalism and minimalism lies at the heart of confirmation battles within the Senate. Over the past generation, Democratic senators have had no trouble with minimalists, even if they are quite conservative. But they have given careful scrutiny to, and sometimes blocked, those they believe to be fundamentalists. Robert Bork, an exceptionally able, honorable, and distinguished judge, was rejected by the Senate above all because he appeared to be a fundamentalist seeking to make radical changes in the law. By contrast, Anthony Kennedy was confirmed on the ground that, though unquestionably conservative, he was mostly a minimalist.

President Bush has added both minimalists and fundamentalists to the lower courts; he has not shown a clear preference in favor of one or the other. Roberts's record, taken as a whole, gives some modest indications that he tends toward the minimalist camp.

Here's a good reason to think he isn't a fundamentalist: He hasn't publicly committed himself to it. Most fundamentalists are not in the closet. They have strong convictions about how to interpret the Constitution. They believe that the Court has gone badly off the rails, and they are not shy about announcing that fact. Bush might well have chosen another candidate, such as Judge J. Michael Luttig or Judge Janice Rogers Brown, whose fundamentalist credentials are much clearer. Minimalists don't need, or even like, to announce themselves as such. Judge Roberts's general silence—his unwillingness to attack existing constitutional law in any kind of public way—suggests a minimalist temperament.

There is another point. Judge Roberts's opinions thus far are careful, lawyerly, and narrow. They avoid broad pronouncements. They do not try to reorient the law. When he disagrees with his colleagues, he does so with evident respect and with a frank recognition that reasonable people can disagree. In a separate opinion concluding that American soldiers cannot sue Iraq after being held as prisoners in the Gulf war, Roberts's opinion on some technical issues announces his "agree[ment] with the majority that this question ... is close." His opinions show none of the swagger that can be found in some of the writings of Scalia and Thomas.

If there is any counterindication, it might be found in just one of his opinions, involving the Endangered Species Act. The Fish and Wildlife Service decided that a construction project in California would jeopardize the continued existence of the arroyo southwestern toad. The development company argued that the Endangered Species Act could not constitutionally be applied to a project that involved California and not interstate commerce. A three-judge panel of the D.C. Circuit held that the protection of endangered species was sufficiently connected with commerce among the states. The company sought a rehearing before the full court, which was denied by a 7–2 vote. Judge Roberts, along with Judge David Sentelle, thought that rehearing was justified. He suggested that the panel's reasoning was inconsistent with Supreme Court precedent and should therefore be reviewed by the full court.

At first glance, Judge Roberts's dissent might seem to put him in the fundamentalist camp. It isn't easy to attack the Endangered Species Act on constitutional grounds, and any such attack suggests a willingness to impose new limitations on congressional power. But consider the last sentence of Judge Roberts's opinion, suggesting that review before the full court would "afford the opportunity to consider alternative grounds for sustaining application of the Act that may be more consistent with Supreme Court precedent." This sentence is minimalism in action: an unwillingness to speak broadly and a desire to proceed with careful attention to particular facts and arguments.

Of course, it would be hazardous to reach any general conclusions on the basis of silences and a brief record on the bench. Judge Roberts was unquestionably an ingenious choice—greatly celebrated by conservatives and without the kind of background that would terrify liberals. But the central questions remain. Is Judge Roberts more like Judge Bork—only without the paper trail? Does he believe that the Constitution should be interpreted to mean what it meant at the time it was ratified? Does he question the right of privacy? Or do his views fit more closely with those of Frankfurter and Harlan? We have reason to suspect the latter, but this is a proper focus of the confirmation process. If that process works well, it will provide some crucial clues about his general approach to constitutional law. ■

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

BOOKS & THE ARTS

STANLEY KAUFFMANN ON FILMS

Monsters and Music

A RUNAWAY TRAIN RACES past with every one of its passenger cars burning fiercely. A city pavement cracks upward, on and on, as huge strange creatures fight their way to the surface. These are only two of the dozens of startling moments in **WAR OF THE WORLDS**. From the very start of Steven Spielberg's film, we can feel him taking off his jacket and getting happily down to work on one of his "boy" pictures. His career has been as patently schizoid as any major talent's has ever been. With the summoning of his soul in such films as *Schindler's List* and *Amistad* and presumably the one he is now making about the murders of Israeli athletes at the 1972 Olympics, Spielberg rises to the front rank of contemporary directors. But quite clearly what first got him interested in films as an adolescent was the means to realize juvenile invention. As vicar for millions of others who have the same itch but not the same talent and drive, he makes films that those millions can think of as their own, though they happen to have been made by someone else. *Jaws*, *Jurassic Park*, the Indiana Jones pictures—watching them and enjoying them, I always seemed to feel the gratitude of those who had wanted to make them and couldn't.

WAR OF THE WORLDS
(Paramount and DreamWorks)

THE BEAT THAT MY HEART SKIPPED
(Wellspring)

Inevitably, in some viewers' eyes, Spielberg's serious films have suffered in esteem because he also makes lighter fare. But that is like derogating the H. G. Wells who wrote *Tono-Bungay* and *The World of William Clissold* because he also wrote science fiction, including *The War of the Worlds*. Those detractors might remember what Borges said of Wells's science fiction: "They are the first books I read: perhaps they will be the last. I think they will be incorporated ... into the general memory of the species, and even transcend the fame of their creator or the extinction of the language in which they were written." Agree or not, we can get a considerable hint of what entranced Borges from Spielberg's film.

His screenwriters, Josh Friedman and David Koepp, have transposed the story from England in 1898 to New Jersey today, and have made the hero a man named Ray, who is a crane operator on the docks. He is divorced, but his ex-wife leaves their two children—a teenage boy and a ten-year-old girl—with Ray for the weekend, which of course is when the troubles begin. A voice-over at the start has told us that superior beings have been watching Earth, waiting for the right moment to invade. Why this weekend is the right moment is not explained, but in any case, gigantic mobile tripods equipped with elephant-like trunks, apparently planted previously by the space creatures, emerge from the depths and begin to conquer the world, destroying as they go.

Most of the film is about Ray's efforts to take his children northward to the relative safety of their grandparents' home in Massachusetts. The havoc that is wreaked along the way, the narrow escapes of Ray and his kids, Ray's feverish but clever schemes for protecting them in the chaos—all are tributes of a high order to Spielberg's ingenuity and Janusz Kaminski's camera. Beyond the ingenious crises that Spielberg devises, he often has to deal with immense crowds of panicked people, and he gets sweeping theatrical flow from them. Kaminski, who is as good as any cinematographer working today, matches the chromatic tones of shots to their content in ways that can only be called exciting.

The story ends with Wells's ironic finish, which, though known throughout the world for the past century, I had better not specify here. (I've been chided for tipping the finish of a film made from a Jane Austen novel.) Justin Chatwin as the son supplies all the adolescent stubbornness that is needed. Dakota Fanning, as his sister, would get the Oscar for screaming if it existed. Gratifyingly, through all the story Tom Cruise, as Ray, shows once again that he can be an intelligent, precise actor.

A chilling coincidence: a few days after I saw *War of the Worlds*, the four bombs exploded in London. Some of the London faces I saw on television reminded me of faces in the Spielberg film. This made me remember that after September 11, many people said that, terrible as the fact of it was, the catastrophe looked like a movie. Dare we hope that it is time for life to stop imitating art?

Much fuss has been made about the fact that, reversing the usual traffic pattern, France has made its own version of an American film. The American original was James Toback's *Fingers* (1978); the French adaptation is **THE BEAT THAT MY HEART SKIPPED**, directed by Jacques Audiard, who co-wrote the script with Tonino Benacquista. Advance news of this revision seemed strange. In Toback's film, a gangster was torn between a life of crime and a career as a classical pianist. The combination was so silly—an impossible contradiction to evoke oh-so-deep thematic drama—that I hoped Audiard and colleagues had found a way to make it credible.

I can't remember Toback's film clearly, but, speaking from memory, I'd say that Audiard's film is worse—because the attempt to make the story credible is laboriously hip. Tom is a twenty-eight-year-old Parisian real-estate hustler, working for his shady father, not averse to violence as needed along the way. Tom's (deceased) mother was a pianist, which explains his musical interest. One day Tom runs into his mother's former manager, who invites him to audition—though Tom hasn't practiced in ten years! If that isn't sufficiently far-fetched, one day when Tom makes a call in a sidewalk

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

phone booth, a passerby hears him talking about piano and recommends a teacher to him.

Contrivances accrue so thickly that the source seems to be not 1978 Toback, but 1930s Warner Brothers. The film sweats to be up-to-date with ultra-hectic editing, pace, elision, and sangfroid, but they can't verify the pasteboard base. Romain Duris does his best to give some credence to Tom, but the character is so obviously an old-fashioned movie puppet in modern dress that Duris is trapped.

Audiard says that he has been haunted by *Fingers* for years, which, after seeing what he has done with the idea, makes us doubt that he has a sense of humor. *Fingers* and *Beat* remind us that Clifford Odets's *Golden Boy* (1939) presented a fellow torn between the violin and boxing, which was a corny idealism-versus-materialism allegory, but much less ludicrous than the Toback-Audiard piano-crime torque. ■

ROBERT BRUSTEIN ON THEATER

Red and Blue States of Mind

IN A POLITICAL VERSION OF THE color wars we used to wage at summer camp, our country has been divided into red states and blue states ever since the 2004 election. So, I fear, is our culture. I mean this in a psychological rather than a geographical sense: I am talking about red and blue states of mind. This kind of culture clash is nothing new. It is an extension of that age-old American conflict between the puritan and the artist—the most recent version, dating from the NEA flap over Robert Mapplethorpe and Andres Serrano, being the continuing moral backlash against real or alleged obscene and irreligious art. What is new is the intensity of the conflict, and the fervor with which religious prejudices are being channeled through judgments of taste.

THE 25TH ANNUAL PUTNAM COUNTY SPELLING BEE
(Circle in the Square Theater)

TERRORISM
(Harold Clurman Theatre)

Much has been written about the growing power of the evangelical right, whose tentacles reach into the executive office, the legislature, the military, the judiciary, even the local schoolhouse. In publishing, movies, museums, and the media, these zealots have been proceeding to counteract, and sometimes to suppress, whatever is considered transgressive or "liberal" in the culture. The attempt by Kenneth Tomlinson, chairman of the Corporation for Public Broadcasting, to tilt the funds of PBS and NPR toward more conservative programming because of their "liberal bias" is only the most recent example.

The attack on "liberal bias" is often a revival of a traditional American crusade against controversial thought and radical art, a condition previously dramatized in the Scopes trial, personified in Sinclair Lewis's *Babbitt* and in the "boobocracy" of H. L. Mencken, and precipitated in the voluntary expatriation of so many American artists and writers during the 1920s. In the McCarthyite 1950s, it was recapitulated in the involuntary exile and even imprisonment of many Hollywood people following the investigations of the House Un-American Activities Committee.

But the right-wing perception that the culture is controlled by liberals or radicals does have some basis in fact. Despite the recurrent dominance of red-state politics, the blue state of mind has been predominant among artists and intellectuals for at least a hundred years. True, it intensified during the late 1960s and 1970s as a result of the civil rights and antiwar movements, but its newly unbuttoned spirit had already found a voice in the upstart stand-up comedy of Lenny Bruce and George Carlin, in the satiric literature of Philip Roth and Joseph Heller, in the gonzo journalism of Hunter S. Thompson and Norman Mailer, and in the anarchic comedy of movies such as *Dr. Strangelove*. Explosive sexual and political themes came somewhat later to the theater, in such Off-Broadway provocations as *MacBird* and *Dionysus in 69*, before finding their way to Broadway in erotic revues like *Oh! Calcutta!*

Once out of the bottle, the genie was bound to display its privates. Audiences in the 1930s may have been shocked to see James Barton turn upstage to pretend to urinate in *Tobacco Road*, but recent audiences witnessed full-frontal pissing in Adam Rapp's *Finer Noble Gases* and watched a half-dozen naked men taking showers in *Take Me Out*. Simulated and sometimes actual sex, both oral and genital, has become a commonplace of our stage, along with often ferocious satire on America's most cherished religious pieties and political convictions—the kind of behavior designed to drive the red state of mind into a frenzy. (In 1998, Terrence McNally's *Corpus Christi*—about a gay Jesus surrounded by twelve flaming disciples—even brought bomb threats to the Manhattan Theatre Club and death threats to its two directors.)

Whatever you think of this sort of thing, and it can grow excessive, by the turn of the twenty-first century the theater had come a long way from its old role as an entertainment parlor accustomed to telling "in polite whispers its tales of small triangular love stories in small rectangular settings" (as Hallie Flanagan Davis described Broadway in the 1930s). It was as if our citizens were at last beginning to accept the sexual nature of their bodies, if not a degree of intellectual and artistic maturity, and embrace a culture designed for adults rather than for children.

September 11 threatened to change all that. After the attacks on the World Trade Center and the Pentagon shattered not just our complacency but our very concept of security, those with the red-state mentality intensified their efforts to re-establish the public's lost certainty by any means possible. This involved reaffirming established conventions, moral orthodoxy, and patriotic gestures—the equivalent of lapel flags and religious icons. The same development no doubt accounts for the introduction of "intelligent design" into many schools alongside evolution and the growing presence of Patriot Act watchdogs in so many aspects of our lives.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

It is easy to understand why American pews are full while European congregations are thinning. Religion gives us what secular humanism cannot, namely fixed codes of conduct, traditional patterns of behavior, and clear moral boundaries. It provides guidance through an uneasy world and hope for life in the next. Religion can also be used to justify the taking of life. It has been cited to support capital punishment and violence against abortion clinics, not to mention the homicidal attacks of suicidal terrorists, always accompanied by chants of "God is great!" It is hard to imagine a more appropriate leader in such a godly time than a born-again president who believes in absolute good and absolute evil, who needs no evidence to support his pretexts for preemptive wars, whose ear is directly tuned to the voice of his Creator.

September 11 may also have influenced the conduct of the cultural left, which has been known to display its own brand of intolerance and consensualism in pursuit of certainty. In the past, that agency was Stalinism. Today, it is "political correctness," a catchphrase for the way that some people imprint a red-state mentality on blue-state issues—affirmative action, multiculturalism, racial justice, gender equality, gay and lesbian rights. This mindset has been particularly noticeable in the theater. Until twenty-five years ago, you could count the number of prominent black and female playwrights on the fingers of a mutilated hand, and most gay playwrights (notably Tennessee Williams and Edward Albee) were disinclined to write about gay characters. What was once a minority has now become a majority, and our stage is largely preoccupied with themes related to homosexuality, race, and gender.

It is not that these themes are unimportant. Full rights for minorities will remain a great domestic challenge well into the twenty-first century—along with more equitable income distribution, improved health care, global warming, the environment, and all the other blue-state issues rarely noticed by our playwrights. The problem is that, in theatrical form, these themes are often lacking an essential quality of art—namely, ambiguity and mystery—since the left holds its liberal views with the same ideological fervor as the most right-wing Creationists. The best blue-state minds have always been open to debate and dialogue, and a capacity to qualify their most deeply held opinions. Today, a mindless dogmatism has overwhelmed this healthy skepticism, along with a numbing predictability. There are a few exceptions to the general sectarianism, among them Suzan-Lori Parks, Paul Rudnick, and Paula Vogel, who bring varying degrees of complexity to their political exercises. But for the most part, both our political right and our political left are deeply red in their desire for unconditional certitude.

Under such circumstances, what values can the theater continue to provide? At best, a dialogue: not pat answers but painful questions, posed, one would hope, in satisfying aesthetic form. This, of course, implies an admittedly unappealing alternative, namely the persistence of uncertainty. It is surprising and a little heartening, therefore, that the most heralded play of the year, John Patrick Shanley's account of sexual abuse among the Catholic clergy, was titled *Doubt*. Most of us had probably already made up our minds about this controversy. In the case of Shanley's priest, however, the abuse may or may not have been committed. The fact that only the author himself knows the answer (the characters and the audience are left in the dark) is beside the point. Clearly, Shanley is trying to provide a theatrical antidote for a time when doubt has become something of an un-American activity.

Two recent productions stimulated my thinking on this issue. One reinforced the impression that Broadway is still resisting full adulthood. **The 25th Annual Putnam County Spelling Bee** is the heir to last year's *Avenue Q*: both of these award-winning musicals feature grown-up actors behaving like kids in order to induce nostalgia for childhood. Audiences love these shows, and I feel like something of a sourpuss criticizing experiences that are giving a lot of people a lot of pleasure. But for all its blue-state posturing, *Spelling Bee* is at heart a red-state musical in the sense that it serves no purpose other than to allow escape into a more innocent world.

James Lapine is an extremely accomplished director, second only to Mike Nichols in his capacity to connect with an audience. Here, connect is an understatement—I haven't seen so much audience groping since the old Living Theater love-ins. Not only do we get free candy, thrown at us by an actor walking the aisles, but we are continually being fondled, stroked, and even encouraged to go on stage and perform. Joining the six professional contestants in the cast each night are a few audience members pulled from the house to answer softball questions until they are sent back to their seats with an impossible spelling challenge. The problem with this device is that the slightly embarrassed good nature of the spectators is in unaffected contrast to the artfully cute behavior of the characters.

These characters include a cross section of contemporary archetypes: an Asian girl with visions of Jesus, a lesbian who runs the gay-straight alliance and wants to know why Father's Day and Gay Pride Week are within seven days of each other, a gangly redhead who can't control his erections, a shy teenager with parent problems, a heavyset nerd who spells out words with his "magic" foot, and a good-natured black felon doing community service. All are played by appealing actors. William Finn's music is sprightly, and his lyrics are sophisticated. The choreography is commendable. So why did I feel like such an outsider? Because *The 25th Annual Putnam County Spelling Bee* represents an America that exists only in the minds of people weaned on *Sesame Street* and *The Wizard of Oz*.

Terrorism, on the other hand, by the Presnyakov Brothers, Oleg and Vladimir, who are young Siberians, struck me as a genuine work of imagination, with the metaphorical overtones of dramatic poetry. Produced by the New Group and the Play Company at the Harold Clurman Theatre, *Terrorism* made no concessions to theatergoers whatsoever, and as a result it didn't attract many of them. The title was probably enough to keep people away, though the play was actually written before September 11. It begins in an airport lounge piled high with luggage. A number of flights have been delayed because of a bomb threat. This causes various degrees of depression, frustration, and rage among the passengers, not to mention the usual insecurity: "You don't feel safe anywhere, only at home."

One doesn't even feel safe at home. In the next scene, the wife of one of the frustrated passengers is getting more than she bargained for from a lover. He not only ties her to the bed, as she requested, but refuses to release her after they make love, stuffing her mouth with a gag and falling asleep. Subsequent

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

scenes take place in an office, where one of the workers has hanged herself in another room; on a park bench, where two elderly women, debating the way the "ethnics" are taking other people's jobs, end up plotting murder; in the changing room of a police base, where some officers examine a photograph of a mutilated woman whose only remains are a pair of hands and feet tied to a bed; and finally in the first-class cabin of an airplane, where the passenger from the first scene imagines that all the engines are on fire. It appears he had walked in on his wife and her lover, turned on the gas taps, and then left for the airport in the expectation that something would trigger an explosion (something did—a kid ringing the doorbell). These dots eventually connect into a coherent line of action.

The play is written in a low-key, vaguely lobotomized style featuring a circular structure borrowed from Schnitzler's *La Ronde* and invoking a brutalized atmosphere redolent of Sarah Kane's *Blasted*. Clearly, the play's title describes not only those big world events that are disturbing our peace, but also the petty events of our everyday domestic lives. As directed by Will Frears (*Omnium Gatherum*), the production is a bit understated, but nevertheless includes a powerful performance from Elizabeth Marvel as the woman in the bed, who proves once again her wonderful command of the stage.

The fact that the sparse audience responded so tepidly to this production, which closed soon after I saw it, suggests that even our theater is now subject to cultural divisions—shall we say between blue-state plays and red-state audiences? But this is a color war that has been going on a long, long time. ■

James Wood

The Blue River of Truth

REALIST VISION
By Peter Brooks
(Yale University Press, 255 pp., $27)

HERE ARE TWO RECENT statements about literary realism, declarations so typical of their age, so finely characteristic, so normative, that a realist novelist would have been very proud to have imagined them into life. The first is by Rick Moody, reviewing J. M. Coetzee's novel *Elizabeth Costello* in *Bookforum*: "It's quaint to say so, but the realistic novel still needs a kick in the ass. The genre, with its epiphanies, its rising action, its predictable movement, its conventional humanisms, can still entertain and move us on occasion, but for me it's politically and philosophically dubious and often dull. Therefore, it needs a kick in the ass." And the second is by Patrick Giles, contributing to a long, raucous discussion about fiction, realism, and fictional credibility on a literary blog called "The Elegant Variation": "And the notion that this [the realistic novel] is the supreme genre of the lit tradition is so laughable that I ain't even gonna indulge myself."

A style unites the two statements, a down-home relaxation of diction ("kick in the ass," "ain't even gonna"), which itself informs us about the writers' attitudes toward realism's own style: it is thought to be stuffy, correct, unprogressive, and the only way even to discuss it—"so laughable"—is to mock it with its alleged stylistic opposite, the vernacular. Realism, it seems, is so conventional that it is almost embarrassing ("quaint") to be caught discussing it at all. A curious anxiety, when one considers that the era Giles dismisses stretches at least from Balzac to Conrad, from 1830 to 1910. It is a little like dismissing as beneath comedy the idea that English poetry reached any kind of pinnacle from Shakespeare to Milton, or that music reached any pinnacle from Beethoven to Mahler.

The major struggle in American fiction today is over the question of realism. Anywhere fiction is discussed with partisan heat, a fault line emerges, with "realists" and traditionalists on one side, and postmodernists and experimentalists on the other. Both sides are committed, apparently, to libelous caricatures that they neither enjoy nor really believe in. No comparable struggle exists in British fiction, because experimental fiction in England has never been substantial enough to mount a decent campaign against the dominant discourse. But the avant-garde in America in the 1960s was full of talent and vigor. In addition to writers such as John Barth and Gilbert Sorrentino, who never reached popular audiences, many of the avant-gardists of that period became mainstreamists, notably Thomas Pynchon and the delightful story-writer Donald Barthelme, and William Gass, and the unclassifiable Kurt Vonnegut. The heirs of this era of experiment might include Don DeLillo, Rick Moody, David Foster Wallace, Paul Auster, Lydia Davis, and Ben Marcus, all very different from one another and of different ages, but all committed in one way or another to going beyond the realist inheritance. An unexpected testament to the success of avant-gardism in America was offered in 1986 by Philip Roth's *The Counterlife*, which took just what it needed from postmodern narrative games in order to make a fundamentally metaphysical argument about the different ways of living, and narrating, a life. And Jonathan Franzen's writhings about whether he is a highbrow artist or a popular entertainer, and his tortured negotiations with the legacies of DeLillo and Gaddis, are difficult to imagine without the challenge of American experimentalism in the 1960s and 1970s.

There are at least two other large reasons for the vitality of this struggle in American fiction. One has to do with the anti-intellectualism of a good deal of traditional American writing, and the other with the perceived traditionalism of creative writing programs, long suspected of exerting a gray monopoly over American writing. The two complaints may be linked. The "hardboiled-dom" that Saul Bellow named as an obstacle to mental life on the first page of his first novel, in 1944, has tended to combine male reticence with an artisanal commitment to "craft"—the latter being, necessarily so, generally a matter of mastering a set of realist techniques. The separation of creative writing programs and English departments is generally profound in most colleges: one does technique, the other does ideas. It is dismaying to find, in Blake Bailey's recent biography of Richard Yates, the richly talented writer installed at Iowa in the 1970s, almost dead from booze and cigarettes, dismissing not only Bellow and Roth but even *poetry* for being

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

too airy-fairy. What postmodernist—what intellectual—would not be goaded by such oafishness? Yates's marvelous stories have accordingly been promoted by male traditionalists such as Richard Ford, Andre Dubus, and Richard Russo, though they rightfully belong to everyone.

IT IS DIFFICULT TO KNOW WHICH side in this dispute is the more myopic. What is certain is that both camps have a niggardly and often confusedly literal conception of realism. Moody's three sentences efficiently compact the reigning assumptions. Realism is assumed to be a "genre" (rather than, say, a central impulse in fiction-making); it is taken to be mere dead convention, and to be related to a certain kind of traditional plot, with predictable beginnings and endings; it deals in characters, but softly and piously ("conventional humanisms"); it assumes that the world can be described, with a naively stable link between word and referent ("philosophically dubious"); and all this will tend toward a conservative or even oppressive politics ("politically and philosophically dubious"). This might plausibly describe a contemporary novel by Anne Tyler or Kent Haruf, but it is almost an exact inversion of the nineteenth-century realist novel, as Peter Brooks's fine new book demonstrates. The realist novel, which Brooks expansively defines as stretching from Balzac to James and perhaps on into Proust, Joyce, and Woolf, was often politically and philosophically radical. Often, and most notably in Flaubert, it overwhelmed the world with words, with elaborations of style, even as it claimed exactly to match word with referent; and often it dealt savagely and pessimistically with its fictional characters.

It is impossible, at this late stage, to separate postmodernism's skepticism about realism from academic literary theory's skepticism, and obviously in the case of the *nouveau roman* the two belong together like bubbles and champagne, in one rare intoxicating blend of the academic and the literary. Literary theory, it might be argued, has been recurringly obsessed with traditional realism, determined to unmask its naivety, and proclaim its enthrallment to bourgeois convention, and gloat over its final impossibility. Thus there is the strange paradox that Roland Barthes, the most sensitive modern analyst of realism, and the critic who most acutely laid bare realism's grammar with something like a lover's devotion, was almost derangedly hostile to its ambitions, an implacable denier of its effects. It was Barthes who wrote, in 1966: "The function of narrative is not to 'represent,' it is to constitute a spectacle still very enigmatic for us but in any case not of a mimetic order.... 'What takes place' in a narrative is from the referential (reality) point of view literally *nothing*; 'what happens' is language alone, the adventure of language, the unceasing celebration of its coming."

Antoine Compagnon, in his subtle book *Literature, Theory, and Common Sense*, rightly argues that "the crisis of *mimesis*, like that of the author, is a crisis of literary humanism, and at the end of the twentieth century, innocence is out of the question." Compagnon stresses the many other twentieth-century pressures on realism, not all of them theoretical:

> If the meeting between Jakobson and Lévi-Strauss in New York during World War II was an important factor in the fate of French formalism, other, less circumstantial factors were at the source of the dogma of self-referentiality as well: notably, the autonomy claimed for literary works by the chief doctrines of the twentieth century beginning with Mallarmé, or the "closure of the text" as a first principle among the Russian formalists, as well as in the American New Criticism during the interwar period, or again the substitution of the text for the work, consigned to oblivion along with the author, while the text is no longer supposed to result from anything but word play and the potentialities of language. In order to exclude content from literary studies, theory follows the movement of modern literature from Valéry and Gide, who already mistrusted realism, continues as far as André Breton and Raymond Roussel, praised by Foucault, and even to Raymond Queneau and l'Oulipo (literature under constraints), which can be seen as perhaps the most extreme effort to separate literature from reality. The rejection of the expressive and referential dimension is not a feature of literature but characterizes the whole modern aesthetic, which is concentrated on the medium (as with abstraction in painting).

Just as Barthes's devoted hostility to realism seems contradictory, so more broadly there is the paradox that theory has complicated our sense of realism's procedures but has rarely credited that now enriched sense of complication to the realist writers themselves. The new complications are credited merely to the texts, whose problematic richness is separated from authorial intention and ascribed to a hapless textual unconscious—or even better, ascribed to the theorist (criticism often believing not in radical texts but only in radical readers).

THEORY, WITH ITS SUSPICIOUS hygiene, has made Balzac's and Zola's novels much more complex than they seemed to earlier generations of readers. (And not just theory: Sartre's *Nausea* mounted a sustained attack on the artificiality of the traditional novel.) No one any longer takes at face value those writers' proclamations that their books will "show everything," will strip reality of its encrusted obstructions and give us reality as it really is, through a pane of glass. (That is Zola's image, but there was also Stendhal's idea of the novel as a mirror being walked down the middle of a road; and James, in a different but related vein, repeatedly talked about the novel's "saturation" or "immersion" in life.) We are all alert, now, to the distortion that all style, even the "simplest," exerts on its subject; we have been trained to see descriptive realism, from Balzac to Isherwood, from Flaubert to Graham Greene, as a set of conventions, a breviary of formulae ("He put down his glass and glanced across the table at her," and so on), that obscure and constrain as much as they reveal and liberate. For us, the pane of glass is always a bit cracked and smeared with the writer's fingerprints.

In his great book *S/Z*, Barthes breaks open—or breaks down—a story by Balzac, and brilliantly demonstrates that its narration rests on a family of conventions, a system of codes, a "grammar" of realism. This grammar, Barthes argues, is a way of structuring not reality but just storytelling itself. There is no "realistic" way to narrate the world. The nineteenth-century writer's naïve delusion that a word has a necessary and transparent link to its referent has been nullified. We move merely among different and competing genres of fiction-making, of which realism is merely the most self-confused, and perhaps the most obtuse because

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

least self-conscious about its own procedures. In Barthes's hands, Balzac seems as artificial, as conventional, as, say, John le Carré's "realist" storytelling seems to us today: a tissue of signs.

PERHAPS THE MOST OBVIOUS OBjection to the postmodern superiority about realism's "conventionality" is this: why should convention make reference to reality impossible? All modes of reference are conventional, including language itself, but we do not assume that such conventionality simply renders the world undescribable. There is no writing without convention; the struggle is always to be alive to the moment when a literary convention becomes dead. Hemingway told us something new about how people talk; but nowadays any television writer knows how to "do" Hemingway, and a once-revealing convention has become an obscuring one.

But if people in the world really do talk as they do in Hemingway, why would such a convention ever age and get stale? Surely it would be eternally alive? Yes, but people do not talk *exactly* as they do in Hemingway. Hemingway took a tendency in speech and made a plausible invention of it. He took a match and he showed that you could cook with it; he taught us that a flame can look like *this*. For people do sometimes sound like this. But the convention is dead precisely when it has become so widespread, among writers, dramatists, screenwriters, that it seems to be saying: people sound like this not sometimes but *always*. They do not. Once partially true, it has become widely untrue.

The anti-realist might say that this is simply grist to his mill, since I am suggesting that fiction is just a matter of more or less untruthful conventions. But it would be more honest to claim that fiction is a matter of more or less truthful conventions. In fact, anti-realist theory has managed to pull off a seemingly impossible contradiction: on the one hand, realism is excoriated for being too literal about reality; on the other, it is excoriated for not understanding that reality does not exist anyway.

Aristotle's original formulation of mimesis promises no such transparency. History shows us, said Aristotle, "what Alcibiades did"; poetry shows us "the kind of thing that would happen." Hypothetical plausibility is the important and neglected idea here: probability involves the defense of the credible imagination against the incredible. This is surely why Aristotle writes that a convincing impossibility in mimesis is always preferable to an unconvincing possibility. The burden is instantly placed not on simple verisimilitude or reference (since it is conceded that an artist may represent something that is physically impossible), but on mimetic persuasion, since it is the artist's task to convince us that this could have happened. Internal consistency and plausibility then become more important than referential rectitude. And this task will inevitably involve fictive artifice and not mere reportage.

Moreover, Aristotle's notion of mimesis is not pictorial but dramatic. Realism can best be defined as the persuasive mimesis of plausible human activity. And perhaps not even of plausible human activity; perhaps one needs just to say "of the human." Kafka's *Metamorphosis* and Hamsun's *Hunger* and Beckett's *Endgame* are not representations of likely or typical human behavior; but they draw their power, in part, from their connection to the human. *This*, we say to ourselves, is what it would feel like to be an outcast from one's family—an insect, a young madman, an aged parent kept in a bin and fed pap. In his "Preface to Shakespeare," Dr. Johnson reminds us that "imitations produce pain or pleasure, not because they are mistaken for realities, but because they bring realities to mind."

There is, one could argue, not just a "grammar" of narrative convention, but also a grammar of life—those elements without which human activity no longer looks recognizable, and without which fiction no longer seems human. W. J. Harvey, following Kant, long ago proposed the notion of a "constitutive category," something which "though not in itself often the object of experience, is inherent in everything we do actually experience ... without it life would be entirely random and chaotic." The four elements of this category are, he suggests, Time, Identity, Causality, and Freedom. I would add Mind, or Consciousness. Any fiction that lacked all five elements would probably have little power to move us. The defense of this broad idea of mimesis should not harden into a narrow aesthetic, for it ought to be large enough to connect Shakespeare's dramatic mimesis, say, with Dickens's novelistic mimesis, or Dostoevsky's melodramatic mimesis with Muriel Spark's satiric mimesis, or Pushkin's poetic mimesis with Platonov's lyrical mimesis.

ONE OF BARTHES'S MOST quoted essays is one of his most subtle, "The Reality Effect," in which he ponders the question of seemingly "irrelevant" or "useless" detail in two passages by Flaubert and Michelet. Barthes was a remarkable critic in part because he thought very like a writer, or rather, like a writer alienated from instinct, and was drawn, like a larcenous banker, to raid again and again the very source that sustained him—literary style. Apparently "irrelevant" detail is indeed one of the great instinctive conventions of fiction-making (and not only of realism), something writers are far better at creating than explaining. An example of such detail might be a writer's decision to describe a man's head thus: "He had very red skin, and his eyes were bloodshot; his brow looked angry. There was a small mole on his upper lip." The red skin and bloodshot eyes and angry skin tell us, perhaps, something about the man's disposition, but the mole seems "irrelevant." It is just "there"; it is reality, it is just "how he looked."

Barthes discusses Flaubert's description of Mme Aubain's room in "A Simple

Create Your Own News. Everyone's Doing It.

Let your voice be heard with a pair Networks hosting plan and get out the "real" news.

pair Networks offers reliable, secure, and trustworthy Web hosting services at a fair price.

Visit **www.pair.com** and choose a Web hosting plan that will help get your message out to the masses.

www.pair.com

RESEARCH ASSOCIATE/PERSONAL ASSISTANT

New York City—Highly intelligent, resourceful individuals with exceptional communication skills sought to undertake research projects and administrative tasks for one of Wall Street's most successful entrepreneurs. We welcome applications from writers, musicians, artists, or others who may be pursuing other professional goals in the balance of their time. $90-110k/yr to start (depending on qualifications). Resume to: gen8R@spsfind.com

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

Heart": "Eight mahogany chairs were lined up against the white-painted wainscoting, and under the barometer stood an old piano loaded with a pyramid of boxes and cartons." The piano, Barthes suggests, is there to suggest bourgeois status, the boxes and cartons perhaps to suggest disorder. But the barometer suggests nothing; it is an object "neither incongruous nor significant"; it is apparently "irrelevant." Its business is to denote reality, it is there to create the effect, the atmosphere of the real. It simply says: "I am the real." An object such as the barometer, Barthes continues, is supposed to denote the real, but in fact all it does is signify it. Realism in general, it is implied, is just such a business of false denotation.

Surely Barthes is too quick to decide what is relevant and irrelevant detail. Or rather, if the barometer exists only to proclaim the real, why don't the piano and boxes, too? As A. D. Nuttall puts it in his book *A New Mimesis*, the barometer doesn't say "I am the real" so much as "Am I not just the sort of thing you would find in such a house?" It is neither incongruous nor significant precisely because it is merely typical. The barometer, in other words, functions much as the piano does: it creates the effect of plausibility. You might say in fact that realism is entirely composed of such irrelevant/relevant detail. Secondly, one can surely accept Barthes's stylistic proviso without accepting his epistemological caveat: fictional reality is indeed made up of such "effects," but nineteenth-century houses like Mme Aubain's in France did contain pianos, barometers, and piles of boxes. Realism can be an effect and still be true. It is only Barthes's sensitive, murderous hostility to realism that insists on this false division.

Indeed, Barthes makes things easier for himself by selecting a bourgeois interior like Mme Aubain's, wherein objects can be matched up with their ideological or temperamental denotation, and objects that do not seem to denote anything can be deemed to denote absolutely nothing at all. Objects, comparatively speaking, are dead, so that Barthes can then pounce on the curious "deadness" of the barometer and announce its deceitful nullity. But it would be far harder to analyze something alive—a description of a face or a human characteristic—in such a way. For instance: "She was small and plump and blacker than most of the people out there, and she had a pretty face. What I liked was watching her eat mangoes. Her teeth would bite into the mango and her lips fasten on either side of it, and while she sucked you saw that she was perfectly happy. When she had finished she always smacked her lips twice, very loud—louder than you could believe possible. It was a ritual." That is Jean Rhys in *Voyage in the Dark*, describing Francine, a minor character. The detail about Francine smacking her lips "twice" obviously denotes her happiness, and perhaps a double smack denotes more happiness than a single one. But a single smack of the lips—or a triple smack, or a contented wiping of the lips with the back of the hand, or some other happy gesture—would denote happiness just as well. No, the *double* smack—a "ritual" of the character, we are told—is there to establish the individuality of the character, her vitality, is there to establish the real. It is certainly an effect; and it works.

PETER BROOKS'S EXCELLENT book is valuable in part because the fruits of recent developments in literary theory are used not to mock realism's pretensions but to praise them. He begins with a relievingly commonsensical truth: "I think we have a thirst for reality. Which is curious, since we have too much reality, more than we can bear. But that is the lived, experienced reality of the everyday. We thirst for a reality that we can see, hold up to inspection, understand." He goes on to suggest that our love of mimesis may be connected to the child's enjoyment of scale models and dolls' houses and lead soldiers, and he instances an early realist tale, *Le Diable boîteux*, from 1707, by Alain-René Le Sage, in which the protagonist is taken to the highest tower in Madrid by a devil figure who then removes all the city's rooftops to show what is going inside: "It is very much like playing with a dollhouse or with a toy city. Yet of course it is already a gesture from Honoré de Balzac or Charles Dickens, seeing through the roofs and facades of the real to the private lives behind and beneath."

Brooks has been interested throughout his career in studying the French realist tradition. In this book he extends his inquiry to include Dickens, George Eliot, Henry James, Courbet, and Caillebotte, with a late chapter that in a somewhat too gingerly manner raises the possibility that Proust, Woolf, and Joyce, far from being rebels, were deepening and extending the realist tradition. It is both a strength and a weakness of the book that its idea of realism is largely historical and traditional. The relatively narrow focus allows him to find a definition of the realist novel on which most readers would agree. He argues that nineteenth-century realism is marked by its emphasis on visuality; by its emphasis on the amassing of detail, and its heavy use of metonymy, whereby attributes and partial details are taken to stand for larger wholes; by its emphasis on the representation of things, and of people moving among things; by its interest in what might generally be called signs, and the decipherment of signs—clothes, class, words, money; and by its awareness that these signs circulate efficiently in a powerful system that at any moment might become unstable. (Hence the intense Marxist interest in Balzac, who seems to see that everything that is solid can also melt into air.)

In a series of subtle readings of particular texts—*Lost Illusions*, *Hard Times*, *Madame Bovary*, *Daniel Deronda*, *Nana*—Brooks shows again and again that realist style, far from transparently rendering the world, tends to push against the limits of transparency: "realism in the quest to know and to detail the environment in which ordinary experience unfolds discovers that vision alone is inadequate, that sight triggers the visionary." What often strikes the reader is the way in which apparently realist style overwhelms the world it is describing, floods it with a surplus. *Hard Times* depicts "a world of fact and definition that claims to refuse metaphor, fancy, and the language of the senses," but Dickens's highly metaphorical style "constantly rings figural changes upon that other world." As in *Madame Bovary*, the rich style seems to assert a moral superiority over its subject, to reserve itself as a space of refuge and refinement. Discussing *Nana*, Brooks argues that Zola, far from "showing everything"—Zola's proud boast—tends to flinch from describing Nana's eroticized body. The style registers "a certain denial of what is seen, a turning away from the truth, a slippage into the mythological evocation." No book, of course, can "show everything"; as Brooks wisely puts it, this was in fact the crazed ideal of the Marquis de Sade. Instead, the realist writer repeatedly encounters "the limits of representation, the limits imposed precisely by the

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

detail, by the process of metonymy. This allows you to speak details, to produce an accumulation of details that evoke a whole. But it doesn't quite, ever perhaps, allow you to speak of their organizing principle or prime mover, except metaphorically, or as allegory."

At times Brooks's immersion in poststructuralist theory gives his readings a uniform drip, in which everything liquefies into the same fluid questions of representation, or the link between signifier and signified, or the way in which we do not speak language so much as language speaks us: the prison-house of language. Thus Balzac's novel "suggests the problem of a world where sign and referent stand in no stable relation"; thus Flaubert reveals that "there is no passion outside language ... the concept of passion is a linguistic invention"; thus in Henry James "the sign-system itself becomes foregrounded, the medium in which the messages are made," and so on. But to his credit, these conclusions are argued, and historically argued—and better still, Brooks thinks that these complications, far from nullifying realist ambitions, only enrich them. At the end of his book, "the real" has not been shrunk to invisibility by scare-quotes; he is still happy to write without self-consciousness of "the concern for such as Balzac, Dickens, Flaubert, Eliot, Zola, James, Woolf to maintain an accurate relation to the real—to make their imaginative reformulations of reality recognizably a 'criticism of life.'" And in an epilogue titled "The Future of Reality?" he suggests that "the impulse that created realism in the novel still goes on, and no doubt will in the future."

YET THE HISTORICAL STRENGTH of the book is also its weakness. Brooks's focus on "the impulse that created realism" necessarily sees realism as an early nineteenth-century, not to say Balzacian, invention, which began to falter around 1910, and which may have been enlarged, or perhaps instead utterly transformed, by Woolf and Joyce. A broader interpretation of fiction's relation to the real might have permitted him to describe the prehistory of the nineteenth-century invention of "realism," finding in, say, Shakespeare or Defoe or Austen "an accurate relation to the real" as well as a realist's tact with detail (of the relevant/irrelevant kind). Coetzee, in *Elizabeth Costello*, has this to say about Defoe:

> The blue costume, the greasy hair, are details, signs of a moderate realism. Supply the particulars, allow the significations to emerge of themselves. A procedure pioneered by Daniel Defoe. Robinson Crusoe, cast up on the beach, looks around for his shipmates. But there are none. "I never saw them afterwards, or any sign of them," says he, "except three of their hats, one cap, and two shoes that were not fellows." Two shoes, not fellows: by not being fellows, the shoes have ceased to be footwear and become proofs of death, torn by the foaming seas off the feet of drowning men and tossed ashore. No large words, no despair, just hats and caps and shoes.

This kind of breadth would have allowed Brooks to bring his discussion up to the present, in a way that might have usefully connected both contemporary realism and contemporary anti-realism (for want of a better word) with the historical realist tradition, and shown how both sides in this argument are perforce Flaubert's children—Flaubert being at once the greatest realist and the great anti-realist, the realist who dreamed of abolishing the real, the luxurious stylist who longed to write "a book about nothing, a book with no external attachment."

BROOKS HINTS, AT THE VERY end of his book, at "the inward turn of the novel with the coming of modernism, its increasing concern with states of consciousness." But this comes too late in his book, and dangles wistfully. Brooks is relatively unilluminating, for instance, on Henry James, because although he sees that James represents what he calls "a turn" in the novel, he seems less willing to admit that James's "turn" was itself made in the name of realism, just more of it. It is one of James's most attractive characteristics that he seems to have wanted the novel to do everything: to be as stylistically perfect as Flaubert or Turgenev, as socially dense as Balzac, as humanely invested in the moral life as George Eliot. James found Flaubert's realism exemplary but lacking, because he felt that it did not extend to a subtle moral scrutiny of the self. Brooks thinks that Flaubert probably did not believe in complexity of the soul. "The kind of 'character' we find in James's novels, or in George Eliot, or Proust," writes Brooks, "belongs to a different kind of novel from Flaubert's, indeed to another view of what constitutes the human." But this seems a little limp. For if James, Proust, and Eliot have a definition of the human that excludes Flaubert, then what sense do we make of a realist tradition whose highest ambassador, according to Brooks himself, is Flaubert? Which is at fault, Flaubert or realism?

On the contrary, the reality of the self seems the best way to defend what is deepest and most enduring in realism; and it would connect James to Woolf, who was a much more Jamesian novelist than Brooks chooses to read her, and James to Austen, a writer he resembles far more than he liked to admit. Once realism is opened up, so that it becomes a way of writing deeply about the self—a plunging into character—it comes to seem not a tradition, not a genre, but the broad central language of the novel, indeed of drama: what James in *What Maisie Knew* calls "the firm ground of fiction, through which indeed there curled the blue river of truth." One way of thinking about the centrality of this broad blue river of truth is to imagine a world in which the only possible novel available was, say, Pynchon's *Vineland* and books like it. It would be a hysterical and falsifying monotony. By contrast, a world in which the only available novel was, say, *A House for Mr. Biswas* would be a fearfully honest, comic, tragic, compassionate, and above all deeply human place.

Realism, seen broadly, cannot be only a genre; instead, it makes other forms of fiction seem like subgenres. For realism teaches everyone else. It schools its own truants: it is what allows magical realism, hysterical realism, fantasy, science fiction, even thrillers, to exist. Realism is nothing like as naïve as its opponents charge; almost all the great twentieth-century realist novels also reflect on their own making, and are full of artifice. But realism may be an impossible ideal, whereby the writer has to act as if the available novelistic methods are continually about to turn into mere convention—into "realism" as Roland Barthes or even Rick Moody would understand it—and so has to try to outwit that inevitable aging. The realist writer, that free servant of life, is one who must always be acting as if life were a category beyond anything the novel had yet grasped; as if life itself were always on the verge of becoming conventional. ■

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

Oren Harman
Particles of Truth

BLACKETT:
PHYSICS, WAR, AND POLITICS
IN THE TWENTIETH CENTURY
By Mary Jo Nye
(Harvard University Press,
255 pp., $39.95)

I.

THE NINETEENTH-CENTURY English philosopher of science William Whewell was something of an oddity, judged by modern minds. He wrote extensively on numerous subjects, including mechanics, mineralogy, geology, astronomy, political economy, theology, educational reform, international law, and architecture. He was one of the founding members and an early president of the British Association for the Advancement of Science, a fellow of the Royal Society, president of the Geological Society, and longtime master of Trinity College, Cambridge. The great scientific names of his day—Herschel, Darwin, Lyell, Faraday—frequently turned to him for philosophical and scientific advice, not to mention terminological assistance. Whewell invented the terms "anode," "cathode," and "ion" for Faraday. Somewhat more fundamentally, upon the request of the poet Coleridge in 1833, Whewell coined the English word "scientist." Until then, the only terms in use were "natural philosopher" and "man of science."

Yet this first "scientist" (whose own philosophy of science would be rediscovered in the twentieth century by critics of logical positivism) was obsessed with the belief that an undergraduate must learn only what is true, and argued that a full century had to pass for the truth of a scientific theory to be satisfyingly confirmed. And so, Whewell decreed, modern science must not be taught at English universities. The new natural sciences tripos was inducting young lads at Cambridge into botany, chemistry, and anatomy, but what of industry, communications, power, the modern world? "Are the students of Cambridge to hear nothing of electricity?" Robert Peel wondered.

Finally, following two decades of arid discussions and heckled votes in the Senate House, it was decided in 1868 to set up a committee on the teaching of experimental physics. The following year, William Cavendish, the duke of Devonshire and chancellor of Cambridge University, offered to pay the sum necessary for the establishment of a chair and a laboratory. Cavendish had made his fortune building railroads and Bessemer plants to manufacture steel, and it was his (and the world's) even greater fortune that the first holder of the chair was a genius: James Clerk Maxwell had shown that electricity and magnetism are the same thing. And it was here, at the Cavendish Lab, that modern physics would be born.

Maxwell died at forty-seven. The man next in line (following the unremarkable five-year stint of Lord Rayleigh) would transform Victorian physics into the physics of the twentieth century. J. J. Thomson was only twenty-seven years old when he assumed the Cavendish Chair in 1884, sporting a pince-nez, a moustache, and a look of meekness. He was the original absentminded professor. It was said of Lady Thomson that upon finding her husband's trousers lying on his bed, she frantically phoned the Trinity porters to inquire whether he had forgotten to put on a new pair. Still, with apparatus that was mostly handmade with the proverbial sealing wax and string, Thomson made an advance that would mark the dawning of a new age. It was J. J., as he was known, who from vast distances of time and place finally countered the pronouncement of the great Greek thinker Democritus and his atomistic teacher Leucippus. Atoms, Thomson proclaimed, were not the indivisible end-all of matter. He discovered the electron.

Next at the Cavendish was the hefty New Zealander Ernest Rutherford, hot-tempered, generous, boastful, boisterous, and positively larger than life. Thomson had speculated on the nature of reality, but it was Rutherford's great talent to be able to measure reality. Peter Medawar would later say of him that his discoveries were "the invention of a fragment of a possible world" and his experiments were measurements to prove that the imagined world really existed. Rutherford loved his teacher Thomson, despite the latter's unfortunate knack for not always giving credit where it was due. One day Francis Aston rushed up to Rutherford to tell him that he thought he had identified yet another isotope but that J. J. refused to believe him. "Gow down on yer knees, me boy," Rutherford replied, "and thank yer Miker that the Old Man hasn't swiped it." By the second decade of the new century, Rutherford was already a famous man, having disproved Thomson's model of a plum pudding, in which negatively charged electrons were stuck like plums in the pudding of the atom. Now Rutherford declared, in a microscopic Copernicanism, that the atom had a nucleus, with the electrons circling it like planets circling the sun, and he had the experiments to prove it. The imagined really did exist.

IT WAS IN THE WINTER OF 1919, just around the time Rutherford was assuming the Cavendish Chair now vacated by the death of Thomson, that a group of four hundred young officers whose training had been interrupted by the outbreak of war were sent to Cambridge by the Admiralty for a quick course of supplementary general studies. One of the boys had been born in 1897 to a family that was outwardly the model of the Edwardian middle class. His father, a discontented and unsuccessful stockbroker, had determined that his son would become a cadet at the Royal Naval Colleges at Osborne and Dartmouth, where the training in math, physics, mechanical engineering, applied electricity, and navigation was rigorous and first rate. The boy excelled at them all, placing first among his peers, but it was as a gunnery officer on the battleship *Barham* during the Battle of Jutland in 1916, at the tender age of nineteen, that he proved his mettle most. It was therefore all the more astonishing to his superiors that the young lieutenant promptly resigned his commission, hav-

Oren Harman is an assistant professor in the graduate program in the history and philosophy of science at Bar-Ilan University, and the author of THE MAN WHO INVENTED THE CHROMOSOME: A LIFE OF CYRIL DARLINGTON *(Harvard University Press).*

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

ing encountered the Cavendish Laboratory at Cambridge. A "young Oedipus ... tall, slim, beautifully balanced" was how the philosopher and critic Ivor Richards remembered him, still walking the Cambridge alleyways in uniform. Now the subject of a wonderfully faithful and readable biography by Mary Jo Nye, his name was Patrick Maynard Stuart Blackett, and he would in time—he died in 1974—become perhaps the twentieth century's finest experimental physicist.

CAVENDISH WAS NOW THE CENter of the world of radioactivity and particle physics. By the time Rutherford arrived in Cambridge, he had already described what he called an "atom-splitting" event that proved that a nucleus, bombarded by fast particles, could disintegrate and turn into something new. Rutherford set Blackett his first task: what happened when an alpha particle from a radioactive source collided with a nitrogen nucleus? Could Blackett photograph the actual disintegration of the nitrogen nucleus using a cloud chamber? Charles Wilson, "a shy and enduring genius" in Blackett's words, had invented the cloud chamber at the Cavendish some years earlier. The chamber is closed by a piston that can be rapidly pulled back so as to immediately expand and cool the gas trapped within. The gas is then supersaturated, and water vapor condenses on the ions that are left by charged particles moving through the vapor, forming individual tracks that can be photographed.

Blackett was a master tweaker, his hands as smart as his mind, and he set to work making numerous ingenious modifications to Wilson's basic chamber. Within three years, and having taken hundreds of thousands of photographs of alpha-particle tracks, Blackett was finally rewarded with eight tracks "of a strikingly different type ... [that] undoubtedly represent the ejection of a proton from a nitrogen nucleus," transforming the nitrogen nucleus into an oxygen isotope. These were the first-ever photographs of such disintegration and transformation events. The secrets of the stuff of the universe were beginning to give way.

Blackett once defined a good laboratory as one in which ordinary people do first-class work. By that standard, "good" would not quite suffice to describe the Cavendish in the 1920s, for none of its members was ordinary. Peter Kapitza had arrived from Leningrad in 1921, Robert Oppenheimer from Harvard five years later. In the interim, Paul Dirac established the Δ-Squared Club, where Arthur Eddington, James Chadwick, Harold Jeffreys, Edward Arthur Milne, and Blackett, among others, met regularly to discuss theoretical physics. Kapitza formed a club of his own, which met on Tuesdays: there Blackett first met Werner Heisenberg, Max Born, and James Franck, as well as Niels Bohr and Paul Ehrenfest. Like pups vying for their father's regard, Rutherford's boys formed bonds of mutual admiration and intense rivalry. Nye recounts the tale of Oppenheimer, on vacation in Corsica in the spring of 1926, telling a startled John Edsall and Jeffries Wyman that he must rush back to the lab to make sure that Blackett was all right, having left a poisoned apple on his desk.

AMONG THESE GIANTS, BLACKett was coming into his own. By 1930 he was the acknowledged master of the cloud-chamber technique, and it was right about then that Bruno Rossi from Florence, who was engaged in cosmic-ray research, decided to send one of his students over to Cambridge to be apprenticed to Blackett. Giuseppe "Beppo" Occhialini was an eager assistant and a deft experimenter, and he brought with him knowledge of Rossi's ingenious coincidence circuit linking two Geiger counters, which was used for detecting energetic radiation from outer space. "Beppo" and "Pat" became close friends, and they combined the two techniques to create a hybrid system that no longer depended on the rare good occasion of photographing cosmic-ray events, but instead captured such events almost at will. "One on each, Beppo, one on each!" Blackett shouted for all the Cavendish to hear as he burst out of the darkroom one day with four dripping photographic plates held high. It was their first success in seeing cosmic-ray tracks.

Blackett and Occhialini observed among their many pictures some electron tracks that appeared to bend in the applied magnetic field as though they were positively charged, a result that contradicted the belief of Robert Millikan, the dean of American particle physics, that cosmic rays were gamma rays without electrical charge. Blackett discussed these photos with Dirac, who had developed a relativistic theory of the electron that predicted the existence of a positive electron. No one believed it. Blackett understood that his bending tracks could in fact be Dirac's postulated positrons, but he exercised Whewellian caution and tarried in interpreting his own results. In the meantime, Carl Anderson at the California Institute of Technology registered the existence of the positive electron using a randomly operated cloud chamber and announced the positive electron to the world in September 1932—the same year Chadwick discovered the neutron and John Cockcroft and Ernest Walton split the lithium atom.

Despite Anderson's and Millikan's assumption that the production of a positron was a rare event and their continued conviction that most high-energy positive tracks are protons, and despite the fact that Blackett and Occhialini, backed by Dirac, held a much stronger grasp of the theoretical explanation and scope of the phenomena (their discovery of positive and negative electron-pair creation led to the theoretical acceptance of the transmutation of light into matter and vice versa) and had better photographic apparatus with which to prove it, it was Anderson who was awarded the Nobel Prize in 1936. Disappointed with losing credit for making a major discovery, and with Rutherford's initially cool reaction to the positron and to his apparent preference for Kapitza, Blackett moved from the Cavendish to Birkbeck in the fall of 1933, determined that if running a lab meant being a dictator, he preferred to be his "own dictator."

II.

NO LESS DRAMATIC THAN THE nuclear transformations were the rapturous changes taking place above the atomic level. Britain in the 1930s was undergoing social, scientific, and political upheaval. Economic depression, the rise of fascism, and an increasing call for the mobilization of the nation's defenses for the possibility of war now conjoined to raise the political consciousness of many previously apolitical scientists. As in the United States and France, the failure of science to stage an economic recovery through an effective utilization of technology was palpable. But, peculiarly, in Britain government remained wedded to aristocratic cultural forms that were often hostile to industrial and scientific aims. Scientists were denied access to the inner circles of political life, and were often demeaned,

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

discounted, or demonized in political speeches and humanist discourse. Most professional politicians did little to hide their ingrained lack of interest in the social ramifications of scientific research. Establishment England was still the land of essay-writers, not of problem-solvers. The Hunger Marches at home, the Nazi perversion of biology abroad, and the long history of ruling-class disdain for science and scientists, marked by meager funding for research, had together brought the profession invented by Whewell back in 1833 under severe attack.

Soon a "social relations of science movement" arose to combat the tide. Stressing the importance of science to society, calling for a shift in government funding priorities, and demanding a more effective utilization of science for the good of the nation, the movement attracted many scientists, and quickly became a dominating force on the British intellectual landscape. Many turned their heads to Soviet Russia, where it was known that only the ballerina could rival the scientist for social prestige. "Our present rulers and those who support them," cautioned mathematical population geneticist J. B. S. Haldane, then still only a socialist, "will be well advised explicitly to imitate the extremely capable Bolshevik leaders, and adopt an experimental method." The first Soviet five-year plan, observed the biologist Julian Huxley, was a "symptom of a new spirit, the spirit of science introduced into politics and industry." Sidney and Beatrice Webb, supported by other Fabians such as George Bernard Shaw, Havelock Ellis, and H. G. Wells, proclaimed in 1937: "Unlike groups of landed proprietors, lawyers, merchants, bureaucrats, soldiers, and journalists in command of most other states, the administrators in the Moscow Kremlin believe in their professional faith; and their professional faith is science."

Indeed, no left-wing movement in the West ever became so obsessed with the scientific road to socialism as the one in Britain. Twice an "outsider"—for its politics and for its profession—the scientist-led left adopted science as its own cultural symbol. In the 1930s and into the 1940s, more than half of the editorial board members of the *Modern Quarterly*, Britain's most distinguished journal of Marxist thought, were practicing scientists. These men, led by Haldane, the biochemist Joseph Needham (who also became a distinguished historian of Chinese science), the mathematician Hyman Levy, the biologist Lancelot Hogben, and the crystallographer J. D. ("Sage") Bernal, were interested in Marxism as a science; they were concerned with the social relations of science, and saw the reconstruction of science and the reconstruction of society as interdependent tasks. "The social philosophy of Western Europe," wrote J. G. Crowther in 1936 in his book *Soviet Science*, "has roots deep in a pre-technical era. The social philosophy of Soviet Russia, dialectical materialism, is founded on modern physical and biological investigations." In *Darkness at Noon*, Koestler's Rubashov said it even better: "The Jacobins were moralists; we were empirics. We dug in the primeval mud of history and there we found her laws."

Bernal, a fiery redheaded Marxist Irishman who was said to be one of the last men "to know everything," led the way. In his *Social Function of Science*, published just before the war, he argued that the socialist transformation of Britain had become a scientific necessity and virtually a historical inevitability. As new scientific knowledge led to new technological advances, the economic field would be altered, and the distribution of wealth and labor, and consequently of social values, would be transformed. The pursuit of science itself not only stood above the class war, but also was actually opposed, in the long run, to the preservation of a class system. The march of science, not the actions of the working class, would ultimately ensure the downfall of capitalism.

Blackett was a Navy man, a proud patriot less prone than the anti-establishment Haldane or Bernal to become blindly enamored with the Soviet Union. Yet, like them, he was convinced that, as he wrote in *The Scientific Worker*, "the main lines of its [science's] growth are broadly governed by urgent human needs of the time, arising out of the way in which men gain or seek to gain their living." As war approached, government suddenly seemed to be more prone to adopt this position. Bernal's statistic that only one-tenth of one percent of the British GNP in 1939 was devoted to scientific research and development could no longer be ignored. Blackett and his friends in the social relations of science movement were right: science was not some disembodied activity embarked upon by strange men in lab coats in ivory-tower universities; it was the very path upon which Britain's economic, social, and political future would be paved. Most importantly, it could help to win wars.

It is a well-known (and probably apocryphal) story that during the Great War Rutherford sent a message to the anti–submarine warfare committee to say that he could not attend a meeting because he had split the atomic nucleus—which, if true, was of greater importance than the war. Now, as Hitler stood poised to invade Europe, Rutherford's former student Blackett took a very different view of things. Now at Manchester, having replaced Sir William Lawrence Bragg, who had moved to Cambridge to take hold of the Cavendish Chair vacated by Rutherford's unexpected death in

His Muse

(A Cento)

The secret is not praise.
JOHN BERRYMAN, #340

Now to his harp the blinded minstrel sang
To make a figure of dream in a woman's form,

Like white wings in the sky, or a flashing thought
So he sat down where he had sat before

Proud and brawny but with tottery shanks
Not a word out of place, not a pointless word

Pear trees, pomegranates, brilliant apples

And as he toiled surehandedly at this
Wasting the body to undo the spirit

A heaviness came over him, and he said
I say I am of yours—or do you not remember

Rag of a man that I am, is this the end of me
And near a pillar of the roof she paused

With hand held out to touch his chin
Oh yes

LARRY BRADLEY

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

1937, Blackett readied himself to suit up for his country once again. Few men were as well placed and well trained to play a leading role as he.

In 1940 the Oxford zoologist John Baker and the German émigré physical chemist and philosopher Michael Polanyi established the Society for Freedom in Science. Baker was a conservative, even reactionary eugenicist, Polanyi an impassioned liberal who had left the Kaiser Wilhelm Institute in 1933 in protest against the Nazis. Yet both were convinced that science does not exist solely to serve man's material wants, that radical central planning was damaging to scientific progress, and that totalitarian forms of government were least in accord with scientific principles. Liberal democracy and scientific progress were mutually dependent. Centralized planning and direction of scientific pursuits were to be resisted at all costs.

But this was wartime. The expertise of scientists was needed if Britain was to prevail in the seas, on land, and in the air—ruling-class hostilities and fears for the freedom of science aside. Radar, sonar, submarine technology, bombs, encryption, analysis: none of this could be accomplished without the mobilization of the very best scientific minds that Britain had to offer. As scientists were recruited en masse to bolster and to plan the war effort, Polanyi's and Baker's cautionary calls were drowned by the newfound love affair between science and government.

Blackett was known to run his physics department the way a captain runs a ship. Nye recounts a Manchester student who "was awestruck by his stately procession down the main stairs for lunch. He always walked in the dead center of the staircase, disdaining the banisters. He held his hands, naval fashion, in his jacket pockets, with thumbs protruding. He had no nickname: he was Professor Blackett." The geophysicist Ted Irving remembered Blackett as "eloquent, handsome, tough ... something of a god-like figure." He was one of the most brilliant physicists in the world. Just as his scientific success had rested on the creative tension between theory and craft, so too would his wartime contributions.

Already in 1933, Henry Tizard, a liberal Whitehall scientist and chairman of the Aeronautical Research Committee, enlisted Blackett to advise the Air Ministry on matters of national defense. It was through the work of the Tizard Committee that RDF—radio-direction finding, or radar (*ra*dio *d*etection *a*nd *r*anging), as it was called following the adoption of the American term—was developed. Winston Churchill, a member of Prime Minister Stanley Baldwin's Committee of Imperial Defense on Air-Defense Research, now pressured the Air Ministry to add to the committee the Oxford low-temperature physicist and his close personal friend and scientific adviser Frederick A. Lindemann. "Even those friends he had," writes Nye, "characterized him as cynical, caustic, and arrogant, politically identified with a wealthy, snobbish, and illiberal right." The clashes between Lindemann and Tizard and Blackett were inevitable, and were later made famous in a little book by C. P. Snow called *Science and Government.*

The winter of 1940–1941 brought with it German air attacks on British cities, and the need for airborne radar became acute. So, too, did the call for greater military and scientific cooperation with Britain's ally, the United States. Roosevelt hurriedly set up a National Defense Research Committee (NDRC) under the leadership of Vannevar Bush, formerly a professor at MIT and now president of the Carnegie Institution. Bush brought on board James B. Conant, the president of Harvard and a chemist; Karl Compton, the president of MIT and a physicist; Frank Jewett, the director of Bell Laboratories and the president of the National Academy of Sciences; and Richard Tolman, a physical chemist from Caltech. Bush and the NDRC immediately set up the Radiation Laboratory for microwave research at MIT, and Roosevelt announced that 50 percent of American arms production was being made available to Britain. Tizard's men—Blackett, Cockroft, Hill, Hodgkin, Bowen—had all been instrumental. They were getting America moving. Crucially, they were wedding science and scientists to government in ways that had never been done before.

Blackett was now dividing his time among the Ministry of Supply RDF (Radar) Applications Committee, the Royal Aircraft Establishment, and the celebrated London Tots and Quots gentlemen's dining club, which had been reconvened by the anatomist Solly Zuckerman in 1939. It was there, with Bernal, Huxley, the embryologist Conrad Hal Waddington, the geneticists C. D. Darlington and Lancelot Hogben, and the science correspondents J. G. Crowther and Peter Ritchie Calder, that Operational Research was born. Zuckerman, who became the scientific adviser to Supreme HQ Middle East and Allied Expeditionary Forces, later referred to Blackett as the "father of operational research."

Following the publication of an enormously influential book, *Science in War*, anonymously written by twenty-five scientists centered around the Tots and Quots Club, Churchill, now prime minister, set up a Scientific Advisory Committee, and the House of Commons followed in 1942 with the establishment of a full-time Central Scientific and Technical Board to coordinate research and development for the war. Blackett was now director of operational research in the Admiralty. Under his command, depth charges dropped by airplanes against German U-Boats were tweaked from the one-hundred-foot to the twenty-five-foot mark; the kill rate rose from 2 or 3 percent in 1941 to 40 percent in 1944. Blackett also persuaded Coastal Command to paint submarine aircraft white instead of black; the paint job resulted in an increase of 30 percent in U-Boat sinking. In other projects, statistics and probability theory were marshaled to modify the size of, and thereby to safeguard, naval convoys and their protecting destroyer forces, and to determine the optimal number of fighter planes to be used in defense of shipping lanes. Zuckerman, Bernal, and Blackett were all at HQ near Portsmouth as Operation Overlord began in June 1944. Bernal remembered how he and Blackett "looked out on the sea where the whole expedition lay just about to start. The air was dim and there were heavy clouds and little bits of rain.... We lay on the grass and talked, estimating prospects of suc-

GOD
LIBERTARIANISM
A NEW COMMENTARY
IN
WORTHINGTON'S WORLD
visit
http://www.worthingtonsworld.com

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

cess or failure on the different beaches." Scientists were virtually running the war, and Blackett was a leader among them.

And yet where cardinal choices had to be made by a handful of men, each harboring his own political and ethical persuasions, clashes became inevitable. A legacy of mistrust already existed between Lindemann, Churchill's man, and Tizard and Blackett over the development of radar (Lindemann championed infrared radiation for the detection of night aircraft). Now, in the midst of war, the enmity between these men flared into open confrontation over the bombing offensive against Germany. Tizard and Blackett were convinced that Lindemann's figures were five or six times too high—namely, that area bombing of German cities would not "break the spirit of the people." Churchill expressed the view that Germans "who have loosed these horrors upon mankind will now in their homes and persons feel the shattering strokes of just retribution," but bombing civilian targets seemed to Blackett to be rooted in an embarrassing failure to pinpoint and hit industrial and military targets. He was appalled by Lindemann's and the government's ethical laxity. An estimated 500,000 German men, women, and children died in the area bombings, as well as 160,000 American and British airmen. While cold analysis after the war tended to support Blackett's position, during the war his views were labeled defeatist.

Even more troublesome to his superiors was the stand Blackett took on nuclear matters. An original member of the MAUD committee set up in April 1940 to consider the possibility of constructing a uranium bomb, Blackett was the only dissenter from the recommendation to government that a British bomb could be produced by 1943 at a cost of £5 million. By 1943 he was outwardly preaching against the American recruitment of British scientists to the Manhattan Project, owing to his conviction that Britain was becoming an American puppet. Following the war, and similar to Linus Pauling's efforts in the United States, Blackett became his country's most vociferous critic of the drive to consolidate and to expand its nuclear arsenal.

Holding a benign attitude toward Stalin's Russia, and estimating both that it would take Russia a very long time to become a nuclear power and that future wars would continue to be conventional, Blackett argued that Britain should openly renounce any aspirations of nuclear power and concentrate instead on the scientific aspects of atomic energy. Clement Attlee was not impressed. In the midst of the Cold War, memory suddenly grew short. Blackett's work was dismissed as that of a "layman," an opinion now enthusiastically endorsed by the chiefs of staff. His views toward the Soviet Union were seen in the Foreign Office as "dangerous and misleading rubbish." Blackett's services were no longer wanted.

By war's end Labour was firmly in power, and a widely shared consensus about the importance of science in national life had been born. The government had adopted a new outlook on science and scientists: expenditures for research and the number of scientists walking the corridors of power increased in tandem. Science had become Big Science. Bernalist ideas continued to have influence precisely because modern science was not just a reflection of free market activity, as Baker and Polanyi had claimed. The crusading days of the movement for the social relations of science were now over. The battle had been won.

Some of the effects of the government's adoption of science were less encouraging than others. Science had been militarized to a great extent, and a top-bottom administrative approach was now led by a select group of scientists "in" with the military, including Solly Zuckerman and other politically favored members of the erstwhile Tots and Quots Club. Humanists buckled down to fight what they took to be the dangerous cultural and technical imperialism of the Bernalist creed. Orwell, Koestler, and Forster led the literary attack, arguing that scientists were prepared to sacrifice moral integrity and the free development of individuals for the benefit of "progress" under the aegis of the all-embracing scientific state. Orwell judged scientists to be "much more subject to totalitarian habits of thought than are writers." In a BBC broadcast in 1946, Forster claimed that the intellectual is "more in touch with humanity than is the confident scientist, who patronizes the past, oversimplifies the present, and envisages a future when his leadership will be accepted."

Blackett was now something of an outsider. His book, *Military and Political Consequences of Atomic Energy*, published in 1948, got his name onto Orwell's famous blacklist of thirty-eight crypto-communists or fellow travelers, and into the FBI's files. It was this scientist's considered view that that the dropping of the atomic bombs was not the last military act of World War II but rather the first major operation of the Cold War. To many, including the American physicist I. I. Rabi, Blackett had abused his responsibility as a scientist by writing outside his field of competence. That same year Blackett was awarded the Nobel Prize for his pioneering work in nuclear physics and cosmic-ray research.

Spurned politically, though still very much a gadfly, Blackett plunged back into science, this time to explore the origins of the Earth's magnetic field. Using a magnetometer of his own design and construction, Blackett offered the first convincing evidence in favor of Alfred Wegener's much maligned (and positively true!) theory of continental drift. The landmass of Britain had shifted over millions of years; the world was never still, it was always moving. Nye describes these impressive scientific endeavors in admirably precise (if somewhat difficult for the uninitiated) detail. The wonder, of course, is how a single man was able to make such signal contributions in a wide range of fields fundamental to our understanding of the nature of matter, of the Earth, and of the universe.

Not only the world's plates, but also its times, were shifting. What were highly controversial opinions in 1948 had in the early 1960s become the stuff of mainstream debates. Suddenly Blackett's views on nuclear disarmament seemed to many quite sensible. Maligned by American hardliners, Blackett was now remembered in Britain as a wartime hero, a maverick, a man of integrity and courage, even if highly controversial. It was a natural choice for Harold Wilson to select him to be the prime mover behind the "white-hot technological revolution" that Wilson had promised his country. Blackett turned down Wilson's offer to become minister of technology, but he remained a highly influential scientific adviser, and he played a key role in saving Britain's computer industry from IBM and other foreign competitors. At the same time, Blackett increasingly began to concern himself with the growing gap between the rich and poor countries of the world, becoming an adviser to Jawaharlal Nehru and adopting a rather unpopular view of the responsibility of Western scientists to

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

assume education and planning roles in the Third World. It is quite fitting, as one commentator has written, that, simultaneously radical and imperial, Blackett would end his days raising the issues of the poor and the needy in the House of Lords.

When Blackett won the Nobel Prize in physics in 1948, T. S. Eliot was the recipient of the prize in literature. A decade later, C. P. Snow derided Eliot in his famous lecture on the "Two Cultures," portraying him as the epitome of the self-absorbed intellectual whose ambitions are so narrow so as to render his very existence irrelevant to the world. It was the scientists, Snow wrote, who have "the future in their bones." "Two British citizens could hardly have been more different," Nye remarks of Blackett and Eliot. Probably so. Yet it was Eliot who wrote, in "Choruses From 'The Rock' ":

> Where the bricks are fallen
> We will build with new stone
> Where the beams are rotten
> We will build with new timbers
> Where the word is unspoken
> We will build with new speech
> There is work together
> A Church for all
> And a job for each

Every man to his work.

I think that Blackett, a man whose life was so starkly emblematic of the intersecting roads of science, the elements, politics, war, and human affairs in the twentieth century, would have agreed. But what legacy did he and his politically motivated and socially engaged colleagues leave? What role will scientists play in the making of our future? Can science and its producers ever really be "neutral"? Should they be? We may still have to wait a Whewellian century, or more, to begin to answer these questions. ■

CORRESPONDENCE

continued from page 4

workplace and forces them to fill their time with meaningless busy work. They are not entirely wrong.

SHANNON STONEY
Cookeville, Tennessee

PATRIOT NAMES

GORDON S. WOOD'S REVIEW OF *The Unknown American Revolution* shows that Gary B. Nash did not adequately understand the sociopolitical dynamic of the war he discussed ("Colonial Correctness," June 6&13). Wood explains Nash's confusions and offers specific alternative explanations, but he does not provide a clear alternate perspective—a perspective that will emerge when we stop thinking this war was a revolution and accept it as a war of independence alone. This point was argued by Richard M. Fulton in the ample introduction to an anthology he edited, *The Revolution That Wasn't: A Contemporary Assessment of 1776*. There is even an article in that book by Wood; in it, he quotes John Adams, who spoke of this war as a revolution. Perhaps this is where the habit of calling it a revolution arose.

It would make analysis much easier if historians would distinguish between wars of independence and revolutions, restricting the latter term to class wars. Then we would see the French Revolution as the first revolution, and we could conclude that practically all revolutions failed, because they promised more than they could deliver and because revolutions are usually stolen by leaders who promised freedom that did not materialize. There were certainly revolutionary tendencies in our war of independence, and this is what Nash emphasizes in his book, but members of the colonial ruling class kept this aspect from becoming dominant. When the chief general in a war owns slaves, it is not a revolution. Some wars of independence were also revolutions, most clearly in Haiti and possibly including Vietnam.

The most successful true revolution was probably Mexico's, and, to the extent that it succeeded, the reason was that it attempted only to move from a quasi-democracy to a real democracy, and there was no dominant ideology. There have been successful wars of independence—Switzerland's, Holland's, and ours—and the reason they succeeded was that the people had prior experience with local self-rule. In countries where wars of liberation failed to establish free governments—most of Latin America in the 1800s and most of Africa in the 1900s—it was because they had no tradition of local self-rule before their wars.

FRANK N. EGERTON
Racine, Wisconsin

FREE RADICALS

MARINA OTTAWAY'S POINT—THAT Islamists must be accommodated if we are to hope for any real change—is well-taken ("Keep the Faith," June 6&13). But, as I understand it, the term *Islamist* refers to one whose very nature is to be anti-democratic: *sharia*, not democracy; fanaticism, not accommodation. Does Ottaway really believe that accepting the inevitable terrorism of radical Muslim groups can lead to liberalism or democracy? Hamas and others would cease to exist were their inherent violence and absolutism taken away from them. It is highly unlikely that groups like the Muslim Brotherhood and Hezbollah would do anything but fight to the death—as the radicals are doing in Iraq right now—if they saw any signs of democracy approaching their neighborhood. Ottaway states that Islamist organizations "have considerable support, as measured by the votes they receive when they are allowed to participate in elections, the turnout at their demonstrations, and the audiences attracted by radical preachers during sermons at mosques." True, but it proves only that the Arab countries that are moving forward are doing so despite the Islamists, not because of them.

SARA MILLER
Rego Park, New York

MARINA OTTAWAY RESPONDS:

SARA MILLER'S CHARACTERIZATION of Islamists reveals profound ignorance about Islamist organizations, the variety of positions they embrace, and the debates that are taking place in their ranks right now. Islamist organizations cover a broad political spectrum. Rather than assuming, as she does, that all Islamists are terrorists, we need to understand them better, so we can work with those amenable to compromise and democracy—and seek to isolate the truly dangerous ones. The alternative is to continue doing what we did in the past: Forget about democracy and support repressive regimes. Unfortunately, such a policy will only feed more hatred of the United States and encourage terrorism. ■

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

BAGHDAD DIARIST

Quiet American II

MUSTAFA AL KHADIMIY, an Iraqi human rights activist and a close friend who worries constantly about my welfare when I stay with him in Baghdad, worries even more about another of his American friends. "I am driving in Western Baghdad, and I see a guy walking alone in jeans and a T-shirt, and I say, 'I know this guy! It's Michael Rubin,' " Mustafa tells me, his voice rising with disbelief. "He takes too many risks—Baathist and Al Qaeda intelligence, they have information about him."

IRAQ ABOUNDS WITH METAPHORS FOR the country that invaded it. The Emerald City beyond the gates of the Green Zone, the mission to leave behind something better than what went before, the sheer magnitude of the whole enterprise—in its virtues and in its defects, there is no purer expression of the U.S. project than the U.S. project in Iraq. And no one embodies the U.S. project in Iraq more purely than Michael Rubin, a 34-year-old former Pentagon and Coalition Provisional Authority official.

IN *A BRIGHT SHINING LIE*, HIS BIOGraphy of Vietnam adviser John Paul Vann, Neil Sheehan describes the clear-eyed but fatally committed Vann this way: "By an obsession, by an unyielding dedication to the war, he had come to personify the American endeavor in Vietnam. ... Where others had been defeated or discouraged over the years, or had become disenchanted and had turned against the war, he had been undeterred in his crusade to find a way to redeem the unredeemable, to lay hold of victory in this doomed enterprise."

SO IT IS WITH RUBIN, WHO, THOUGH HE has witnessed the United States go from defeat to defeat in Iraq, sustains the devotion of a true believer. He is, in fact, the Zelig of the U.S. enterprise in Iraq, present at every turn on the road to Baghdad and now a permanent fixture there. Before the war, Rubin, fresh from a teaching post in Kurdish Iraq (where he contributed articles to this and other magazines), worked in the Pentagon's Office of Special Plans. Arriving in Iraq in the summer of 2003, he quickly made a name for himself wandering from province to province, penning back-channel memos to Washington, and cultivating Iraqi leaders of every ethnic and political stripe. Through no fault of his own, one memo that Rubin helped write has even become the centerpiece in the FBI investigation of Defense Department analyst Larry Franklin, who allegedly summarized its contents to an official with the American Israel Public Affairs Committee.

TODAY, RUBIN SPLITS HIS TIME BETWEEN Washington, where he writes and lectures about Iraq from a perch at the American Enterprise Institute, and Baghdad, where, when I caught up with him in January, he was gathering information on a Pentagon contract. On the day we meet, his disdain for the sandbagged confines of the U.S. nerve center in Iraq prompts him to depart the Green Zone nearly as soon as he arrives. Out in the street, with gunships roaring overhead, he recedes into a swirl of dust—which, to hear American and Iraqi officials tell it, he does quite often. Rubin's casual approach to security has convinced several of his friends that he is seeing the country as he wishes it to be, rather than as it is. As I leave then–Deputy Defense Minister Mashal Sarraf's fortress-like home in Baghdad one evening, he pulls me aside. "Tell Michael to stop being an asshole," he whispers. "He will get himself killed."

AND, YET, RUBIN'S OPINIONS HAVE resonance from personal experience. "I've made a point of walking each neighborhood in Baghdad, checking markets to hear what [Iraqis] were saying, what weapons were being sold—their prices are a barometer of demand," he says. "I followed the barbed wire along the Syrian border, saw a break in the wire, and walked across to prove infiltration." Memos provided by a Pentagon official feature Rubin recording everything from the price of pastries to corruption among Iraqi barbers. "I rented a small canoe and went out into the marsh," reports one. Another conveys a note from the Shrine of Abbas in Karbala: "Unlike at the tomb of Ayatollah Khomeini ... no one was folding dog excrement in bills and slipping it into the tomb in protest." When Kurdish *peshmerga* captured former Iraqi Vice President Taha Yassin Ramadan, it was Rubin to whom they first brought the news. "I went to the CIA station," Rubin recalls, "and they were off-duty, playing poker or something. Then I went to the Combined Military Operations Center. They said, 'Taha who?' I said, 'He's one of the guys on your deck of cards.' "

THERE IS A POINT, HOWEVER, WHERE Rubin's resemblance to Vann ends and a resemblance to the fictional Alden Pyle, the Quiet American who viewed Vietnam through a parochial lens, begins. The keen observer of Iraq's sectarian attachments has become caught up in Washington's sectarian attachments—touting the good faith of Ahmed Chalabi, the bad faith of State Department officials, and other arguments that have become canonical in Pentagon circles. In one report from Baghdad, Rubin the Defense Department partisan recommends dispatching State Department officials to the field as provincial representatives. Instead, officials from Foggy Bottom arrived on the scene and it was Rubin who was forced, literally, to flee for the provinces. "They wanted me assigned to Falluja," he recalls, "so I hid out in Kurdistan until they left."

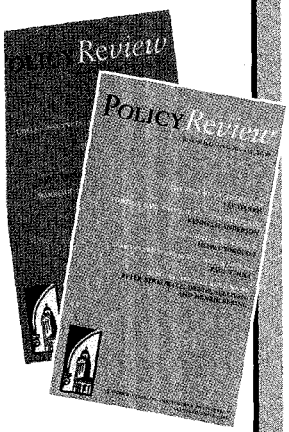
HIS BUREAUCRATIC SCARS, AND EVEN more so the reality of the war with which Rubin so closely identifies, have begun to show—something that became clear to me when we meet up on the eve of Iraq's elections at Baghdad's well-polished convention center. For all of his faith in the U.S. mission, Rubin is slowly, fitfully, but unmistakably coming to embody its diminished expectations. A champion of Iraqi liberalism who helped block Islamists from key positions in the interim government, Rubin tells me that he would prefer a cleric-backed slate to win the referendum. We argue the point, my view being that he has left behind a principled stance that he knew to be correct. To hear Rubin tell it, he's merely paying due respect to reality—that the liberal moment has passed in Iraq. "I filter what I filter through American policy," he adds. I suspect, like Vann before him, he knows the filter is broken.

LAWRENCE F. KAPLAN

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

Cutting-Edge Commentary on Public Policy

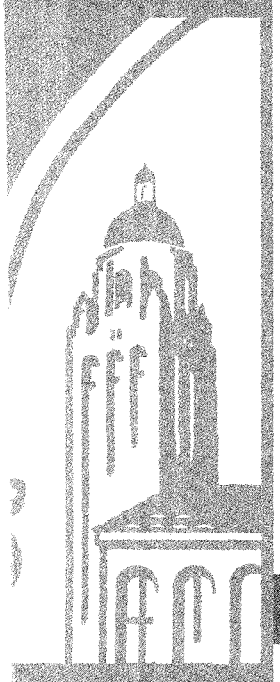
POLICY REVIEW



SUBSCRIBE
Receive six bi-monthly issues for only $36 a year.

FREE ISSUE
Receive a complimentary issue of the latest Policy Review without obligation.

Call 877.558.3727 or visit www.policyreview.org



In the new issue of *Policy Review*

The Future of Tradition

Transmitting the visceral code of civilization

[For a] society that wishes to reproduce itself . . . [it] is not enough to pass on the good china; you must also pass on the family recipe for making the pot roast. Yet even that is not quite enough; you must also find a way to pass along the culinary skills needed to transform a recipe written in words into an actual plate of pot roast. Figuratively speaking, a civilization must pass on the china, the recipe, and the cook. But even this is not quite enough. You must also make the cook realize that in addition to cooking, he must know how to replace himself, and, most critically, he must feel that he has a duty to replace himself. Not only must he teach his children to cook, but he must also teach them how to teach their children to cook. . . . The grandchild, far from being incidental, is decisive. Civilization persists when there is a widespread sense of an ethical obligation on the part of the present generation for the well-being of the third generation—their own grandchildren.

—Lee Harris

Foreign Law and the U.S. Constitution

The Supreme Court's global aspirations

[The phrase] a "decent respect to the opinions of mankind" . . . has morphed into a cliché, offered in any and all circumstances in support of expansive views of the place of international law in U.S. law. . . . [But] Jefferson was referring . . . not to justification of the practices of a settled constitutional order of several centuries, but instead to a society that was about to undertake revolution, rebellion, sedition, treason, confiscation, secession, and war against its lawful sovereign. The moment indeed warranted an explanation for why all that was justified, in terms that the rest of mankind might understand. Nine generations later, Justice Breyer might more accurately have said that consideration of the opinions of mankind was appropriate at, not from, the moment of the nation's birth.

—Kenneth Anderson

To read more, call 877.558.3727 for a free copy of the latest *Policy Review*.

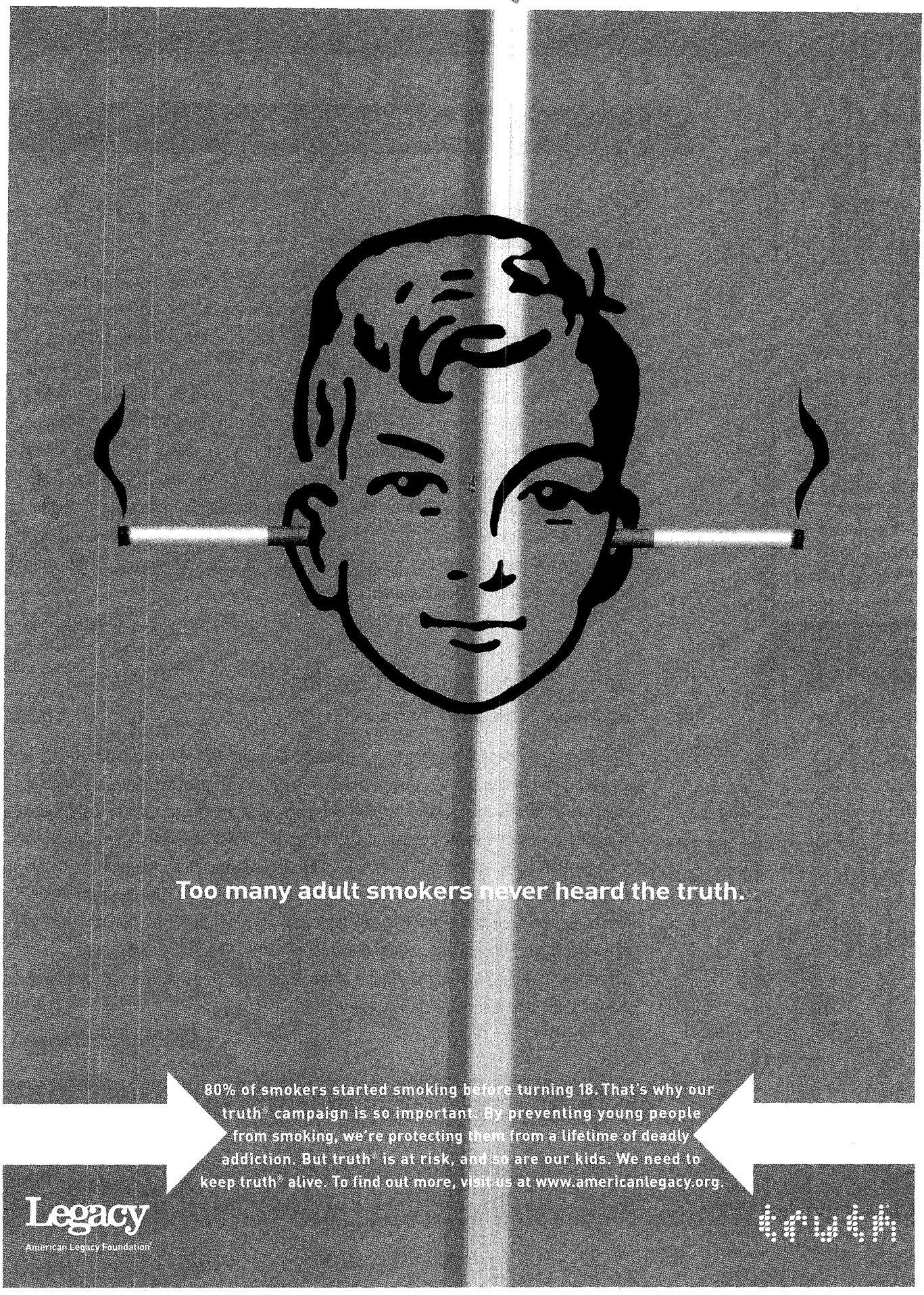
Paid for by the Hoover Institution, Stanford University.

HOOVER INSTITUTION

. . . ideas defining a free society

Hoover Institution Stanford University Stanford, CA 94305-6010 Tel: 877.466.8374 Fax: 650.723.1687 info@hoover.stanford.edu www.hoover.org

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED


Too many adult smokers never heard the truth.
80% of smokers started smoking before turning 18. That's why our truth® campaign is so important. By preventing young people from smoking, we're protecting them from a lifetime of deadly addiction. But truth® is at risk, and so are our kids. We need to keep truth® alive. To find out more, visit us at www.americanlegacy.org.
Legacy
American Legacy Foundation®
truth

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED